CHAPTER VIII.

ADMINISTRATION OF SURVEYED AND UNSURVEYED DISTRICTS.

In this chapter will be found the rules relating to the administration of a district in which the Survey has been completed. But in the rules under Sec. 214 of the Land Revenue Code with which the chapter commences, will be found orders relating to unsurveyed districts and to miscellaneous matters which might have been placed more appropriately in other chapters if it had been thought advisable to split up the rules into detached portions. None have been omitted excepting those relating to Security and City Surveys, which could not have been inserted in this chapter.

Rules under Sec. 214, Land Revenue Code.

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III.—Disposal of Land, &c., the Property of Government.

[Sections 37, 62 and 214 (*i*).]

Collector to dispose of land, &c., only as authorized in these Rules.

7. Land and all rights in or over the same or appertaining thereto, which are the property of Government, may be disposed of by the Collector in any manner authorized by the following Rules, but not otherwise, except with the previous express sanction of Government:—

(1) *Transfer of land to Railway Companies or to State Railways.*

Transfer to be regulated by orders of Government.

8. The transfers of land, whether permanently or temporarily, to Railway Companies or to State Railways shall be regulated by the orders of the Government of India and of the Governor of Bombay in Council from time to time issued in this behalf.†

† The rules and orders relating to acquisition of land for Railways are given in Cap. IX.

(2) *Alienations.*

Rules under Sec. 214, Land Revenue Code—(*contd.*)

Sale of land revenue-free.

9. No land may be sold revenue-free in perpetuity without the previous sanction of the Government of India, excepting, subject to the previous sanction of the Governor of Bombay in Council, small plots of unoccupied waste land not exceeding ten acres in extent as may be required for buildings or gardens; and, except as is otherwise provided in these Rules, no land of any description may be sold revenue-free for a term without the sanction of the Governor of Bombay in Council.*

Revenue-free grants for religious or charitable purposes.

10. Revenue-free grants may be made by the Collector, with the previous sanction of the Commissioner, of land not exceeding in each instance a quarter of an acre in area for the purposes of religious or charitable edifices or institutions, but exemption from assessment shall only be granted for sufficient reasons and not invariably as a matter of course. Land in the neighbourhood of railway-stations shall only be granted revenue-free for dharmshálas, if such dharmshálas, when erected, are to be in the charge of the Local Fund Committee.

Sanads to be issued when revenue-free grants are made.

11. In order to provide against abuse of any grant made under the preceding Rule, a sanad, in one of the forms prescribed in Appendix B. (Appendix E-B. to this work), shall be issued to the grantee by the Collector. If a revenue-free grant is made with the sanction of Government for any purpose not mentioned in the preceding Rule, the form of sanad to be issued by the Collector will be specially prescribed by Government.

Every sanad issued under this Rule shall be registered in the Register prescribed by Rule 57.

The Collector and all revenue officers subordinate to him shall exercise due vigilance to prevent the terms of such sanads being either exceeded or evaded.

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* *Vide* Resn. No. $\frac{1}{142}$ of Feb. 6, 1872, by the G. of I. concerning the alienation of Government land.

12. No revenue-free grant of land and no right in, over, or appertaining to, any land belonging to Government, may be made to or exercised by a Municipality or a Local Fund Committee without the previous sanction of Government. When any such transfer or exercise of right is sanctioned, it will be made subject to such conditions as Government shall think fit in each case to prescribe.

Transfer of land, &c., belonging to Government not to be made to Municipalities or Local Fund Committees without previous sanction of Government.

But nothing in this Rule shall be deemed to prevent the grant of occupancies to Municipalities or Local Fund Committees on the same terms as are applicable to such grants to other persons.

13. Public spaces within municipal limits vest, under section 17, clause (*f*) of the Bombay District Municipal Act, in the Municipality. But such spaces must be carefully distinguished from building-sites and open pieces of ground which have not been dedicated to the public, and which, unless they have been already transferred to the Municipality, still vest in Government.

Public spaces within municipal limits to be distinguished from lands belonging to Government.

For instance, in an irregular street or road of varying width, small pieces of ground between the houses and the roadway should be recognized as municipal property, but not separate building-sites between the houses, even though they may be unenclosed.

When the right to any piece of ground is in dispute between a Municipality and the Government, the Collector shall endeavour to decide the dispute in accordance with the foregoing principles. If the Collector is in doubt, or if the Municipality does not accept his decision, the case shall be referred through the Commissioner for the orders of Government.

Questions of right between Government and Municipalities how to be dealt with.

14. The right of Government to mines and mineral products in all unalienated land having been expressly reserved by section 69 of the Land Revenue Code, the same reservation should be made in every alienation that may hereafter be made in the following terms, or in terms to the same effect (namely):—

Reservation of mines and minerals.

"This grant is made subject to reservation of the right of the Secretary of State for India in Council to all mines and mineral

Rules under Sec. 214, Land Revenue Code—(*contd.*)

products, and of full liberty of access for the purpose of working and searching for the same with all reasonable conveniences."

(3) *Grant of Occupancies.*

15. Occupancies are of two classes, viz., (*a*) occupancies of land to which a survey settlement has been extended, and (*b*) occupancies of land to which a survey settlement has not been extended. The Rules concerning each of these classes are given below separately, but are followed by some (*c*) general Rules applicable to both : *

Occupancies are of two kinds.

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* 1. It was not the intention of the Legislature to interfere with the right of an Inámdár to give out unoccupied land in his village or holding for cultivation, or to accept the relinquishment of the same from the occupant, or to exercise the power referred to in section 71 of the Land Revenue Code. (G. R. 5730 of 1st Oct. 1881.) *See* also notes to Rules 32 and 74 of these Rules.

2. There is no objection to the powers contemplated in clauses (*a*) and (*b*) of section 88 of the Revenue Code being conferred upon the inámdár at once, but none of the powers mentioned in clauses (*c*) to (*f*) of that section can be conferred until a survey settlement has been extended to his village under section 216 of the Code (*vide* the proviso to section 88).

The first step, if the inámdár is to be invested with any powers under clauses (*c*) to (*f*), is for Government, under section 216 of the Code, to authorize the extension to the inámdár's village (by notification in the form given in the margin) of the provisions of Chapters VIII. to X. of the Code which he may desire to have so extended, or of such of them as Government think fit to extend. Section 112 must, of necessity, be amongst the number of the sections to be so extended, when a survey settlement "made, approved and confirmed" under the authority of the Governor in Council, is already in force in the village. And when the existing assessments have not yet been declared by Government to be fixed for a term of years, sections 102 and 103 must of necessity also be included, in order that Government may have power at once to declare them to be so fixed and that the survey settlement may be formally introduced.

Form.

In exercise of the power conferred by Section 216 of the Bombay Land Revenue Code, 1879, the Governor in Council is pleased to authorize the extension of the provisions of Sections of the said Code to the village of in the talooka of the district.

By order, &c."

When the above notification has been issued, and when, if necessary, an order has been issued under section 102 and proceedings have been taken under section 103, the requirements of the proviso to section 88 will have been satisfied.

The powers which Government may then deem it fit to confer upon the inámdár or upon any agent of his may be given, not by notification, but by a commission in the form of Schedule F. of the Code. If powers are conferred under clauses (*a*) and (*b*) of section 88 of the Code at once, without waiting for a survey settlement to be extended to the village under section 216, they, too, must be given by a commission.—*G. R.* 1338, *March* 8, 1881.

(a) Land to which a Survey Settlement has been extended.

Occupancy of survey numbers how to be disposed of.

16. The occupancy of any unoccupied survey number not assigned for special purposes may, at the Collector's discretion, be granted to such person as the Collector deems fit either upon payment of a price fixed by the Collector, or without charge, or be put up to public auction and sold, subject to his confirmation, to the highest bidder.

When the final bid at any such auction is for a sum not exceeding Rs. 50, the power of confirming the sale may be delegated by the Collector, in his discretion, under section 12 of the Land Revenue Code, to the Mámlatdár.

When special conditions may be annexed to the occupancy of a survey number.

17. If the survey number is to be appropriated for purposes of agriculture, the Collector shall not annex any special condition to the occupancy without the previous sanction of Government. In any other case the Collector shall annex such conditions thereto as may be directed by Government, or in the absence of any order of Government, may annex such conditions thereto as he shall think fit, subject to the control of the Commissioner.

Survey number not already assessed to be assessed before occupancy is granted.

18. If the survey number has not already been assessed, it shall be assessed by the Collector (after reference to the Survey Department, if survey operations are still in progress in the district) at the rates placed on similar soils in the same or neighbouring villages; and the assessment so fixed shall hold good pending the period for which the current survey settlement for the village in which the land is situated has been guaranteed, and shall be liable thereafter to revision at every general survey settlement of the said village.

When survey numbers may be given at reduced assessment.

19. If it shall appear that the bringing of any survey number under cultivation will be attended with large expense, or if for other special reasons it shall seem desirable, it shall be competent to the Collector, with the previous sanction of the Commissioner, to give the number revenue-free or at a reduced assessment for a certain term, or revenue-free for a certain term and at a reduced assessment for a further term, and to annex

Rules under Sec. 214, Land Revenue Code—(*contd.*)

such special conditions to the occupancy as the outlay or other reasons aforesaid may seem to him to warrant: Provided always that on the expiry of the term or terms so agreed upon, the land shall be liable to full assessment under the rules then in force for lands to which a survey settlement has been extended.

As a rule, no survey number to be given for less than its proper assessment.

20. Except under the provisions of the last preceding Rule, or, in places in which special rules for the encouragement of the cultivation of waste lands may be sanctioned by Government, under the provisions of such rules, no survey number on which the assessment has been fixed is to be let for less than the amount of such assessment, in consequence of its having been long waste or for any other reason whatever.

(*b*) *Land to which a Survey Settlement has not been extended.*

Grants of salt-marsh land for reclamations.

21. The reclamation of salt land or land occasionally overflowed by salt water should be encouraged whenever there is a reasonable prospect of success, and the occupancy of such land may be granted by the Collector, subject to the confirmation of the Commissioner, on the following maximum terms, and with such modifications in particular cases as may be deemed fit:—

(1) no revenue to be charged for the first ten years;

(2) revenue at the rate of four annas per acre to be levied for the next twenty years on the whole area granted, whether reclaimed or not;

(3) at the end of thirty years the land to be assessed to the land revenue and to be continued under the rules then in force for land to which a survey settlement has been extended;

(4) any portion of the land appropriated for public roads to be exempt from revenue;

(5) if half the area is not reclaimed at the end of five years, and the whole at the end of ten years, or if the reclamation is not carried on with due diligence within one year, the grant

to be cancelled, but may be re-granted at the discretion of the Collector.

Occupancy of melon-beds.

22. The occupancy of land in the beds of rivers used for growing melons shall be sold annually by auction to the highest bidder for the term of one year or such further period as the Collector thinks fit, the bidders being informed that under Rule 53 such land will not be held liable for land revenue.

Occupancy of building-sites.

23. The occupancy of building-sites shall ordinarily be sold by auction to the highest bidder whenever the Collector shall be of opinion that there is a demand for such sites; but the Collector may, in his discretion, dispose of the occupancies of such sites by private arrangement, either upon payment of a price fixed by him, or without charge, as he shall deem fit.

Auction-sales of occupancies of building-sites where to be held and by whom to be confirmed.

24. Auctions held under the last preceding Rule shall ordinarily be conducted in the town or village in which the land of which the occupancy is to be disposed of is situated, and the power of confirming the sales shall ordinarily be delegated by the Collector, under section 12 of the Land Revenue Code, to the Mámlatdár or Mahálkari, but on these points the Collector may in special cases give such directions as he shall deem fit.

Periods for which and conditions on which occupancies of building-sites are to be disposed of.

25. Occupancies of building-sites shall ordinarily be disposed of for ninety-nine years, but subject to an annual ground-rent, the amount of which should be regulated by the value of the site, provided that—

(1) when, as in the case of building-sites at hill-stations, Government have sanctioned special rules, such rules shall be followed;

(2) the occupancy of land near a railway-station or in any situation where it is likely to become valuable or to be required for any public purpose, shall not be disposed of for long periods; and the occupancy of land near a railway-station shall not be disposed of without the previous sanction of Government, nor while the line is under construction without first consulting the railway authorities;

Rules under Sec. 214, Land Revenue Code—(*contd.*)

(3) the occupancy of land of the nature described in the last clause or of land in towns and other places of considerable size or of increasing importance shall be disposed of subject to such conditions as to the style and size of the buildings to be erected thereupon as Government shall in any case direct.

In certain cases lands must be marked out into lots and maps prepared.

26. When the occupancy of land, such as is described in clauses (2) and (3) of the last preceding Rule is to be disposed of, the land should in the first instance be marked out in convenient lots and mapped in such a manner that persons desirous of becoming occupants may clearly know what plots are available.

Due provision should be made in the plans for roads and approaches and access of air and light, and careful regard should be had to sanitary requirements.

Substitution of a new village-site for an old one.

27. Whenever a new village-site is established in lieu of a former one, which it is determined for any reason to abandon, the new site shall be carefully marked out and mapped in the manner prescribed in the last preceding section, and an agreement shall be taken, in the form of Appendix C. (Appendix E-C. to this work), from each registered occupant previous to his being permitted, under section 60 of the Land Revenue Code, to enter upon occupation of any lot.

Establishment of entirely new village-sites.

When an entirely new village-site is established, or an addition is made to an existing site, the same provisions shall be observed for demarcating such new or additional site, but the disposal of the lots therein will be made under the rules ordinarily applicable to the disposal of building-sites.

Proprietary right in building-sites not to be parted with.

28. In every case of the disposal of a building-site the occupancy only and not full proprietary right in the soil is to be granted.

Disposal of occupancy of land to which foregoing Rules are inapplicable.

29. The occupancy of land to which none of the foregoing Rules is applicable, and concerning which no special orders have been passed by Government, shall be disposed of in such manner,

for such period, and subject to such special conditions, if any, as the Collector, subject to the control of the Commissioner, shall deem fit.

(c) *General Rules applicable to all Occupancies.*

Upset-price to be placed on all occupancies sold by auction.

30. Whenever an occupancy is sold by public auction, an upset-price shall, if the Collector thinks fit, be placed thereon in order to guard the revenue against loss and to prevent applications being made for such occupancies when they are not really wanted.

When leases are to be granted.

31. Whenever the occupancy of land is granted on special terms whether as to the amount of assessment or as to the conditions of the tenure, a written lease shall be executed by the Collector clearly setting forth the terms of the grant.

Every such lease shall be in a form sanctioned by Government and, if no suitable form has been already so sanctioned, reference shall be made and a sanctioned form obtained before the lease is executed.

A duplicate shall be kept of every lease executed under this Rule.

Agreement to be executed by the intending occupant, when no lease is granted.

32. In every case in which a lease is not executed under the last preceding Rule, an agreement, in the form of Appendix D., (Appendix E-D. to this work) shall be taken from the person who is to become the registered occupant, and every such agreement shall be endorsed by two respectable witnesses and by the patel and village accountant of the village in which the land to which it relates is situate, to the effect prescribed below the said form; and the Mámlatdár or Mahálkari who takes the said agreements will be held responsible for exercising due care in ascertaining the identity of the persons signing the same, and their fitness to be accepted as occupants responsible for the payment of land revenue, notwithstanding that the agreements have been duly endorsed as hereinbefore required: Provided always that no such agreement shall be necessary when an agreement, in the form of Appendix C., (Appendix E-C. of this work) is taken under Rule 27.

Rules under Sec. 214, Land Revenue Code—(*contd.*)

All agreements taken under this Rule or under Rule 27 shall be kept in separate files in the records of the Mámlatdár or Mahálkari.*

Village accountants to prepare agreements under Rules 27 and 32 without charge, when so desired.

33. It shall be the duty of every village accountant, if so desired by any occupant in his village or by any person about to become an occupant of land in his village, to prepare any agreement that may be necessary under either Rule 27 or Rule 32 without fee or charge of any kind.

A village accountant who prepares any such agreement shall affix his signature beneath the words "written by" on the lower left-hand corner of such agreement.

Form of written permission to occupy under section 60.

34. The permission in writing to be given by a Mámlatdár or Mahálkari under section 60 of the Land Revenue Code to enable an intending occupant to enter upon occupation shall be in the form of Appendix E. (Appendix E-E. to this work.)

No such permission shall be given untill either a lease or an agreement has been duly executed and delivered under either Rule 31 or Rule 32 or under Rule 27, as the case may be.

(4) *Disposal of minor rights.*

Sale of produce of Government trees.

35. The produce of trees belonging to Government may be sold by auction annually.

Grazing and other similar produce to be ordinarily disposed of by sale for periods of one year.

36. The grazing or other produce of all unoccupied land vesting in Government, whether a survey settlement has been extended to such land or not, and whether the same be assessed or not, and of all land especially reserved for grass or for grazing (except land assigned to villages for free pasturage) may be sold by public auction year by year, either field by field or in tracts, and at such time as the Collector shall determine: Provided that the purchaser's rights over such land shall entirely cease on the

* As to alienated villages, *see* note to Part XIII. of these Rules.

dates respectively fixed for the several districts and provinces in the following table, unless, under special circumstances, the Collector shall deem it necessary to extend the time so fixed for any period not exceeding one month :—

Collectorate.	Waste assessed Dry-crop Land.	Waste assessed Rice Land.	Reserved Kurans and unassessed Waste.
Kaládgi	31st March ...	31st March ...	1st May.
Sátára	Do. ...	Do. ...	Do.
Belgaum	Do. ...	1st December.	Do.
Dhárwár	Do. ...	Do. ...	Do.
Kánara	Do. ...	1st October ...	Do.
Other Deccan Collectorates	Do. ...	31st March ...	Do.
Konkan Collectorates ...	Do. ...	Do. ...	31st December for cutting, and up to the monsoon for grazing.
Gujarát Collectorates ...	Do. ...	Do. ...	1st May.

37. The Commissioner may, if he thinks fit, sanction the disposal of the grazing or other produce of any land, specified in the last preceding Rule, otherwise than by sale in public auction and for any term not exceeding five years.

Commissioner may sanction disposal of grazing, &c., in any other manner.

38. The Collector may, at his discretion, sell by public auction or otherwise dispose of the right to remove earth, stone, kankar, sand, muram or any other material which is the property of Government for such periods, in such quantities, and on such terms as he thinks fit : Provided that such sale or other disposal be made subject to the privileges conceded by the two next following Rules.

Disposal of earth, stone, &c., by the Collector.

The rate charged by the Collector under this Rule, when the right in question is not put up for sale by public auction, may be either a lump sum, or so much per cubic foot of excavation, or, in the case of a Railway Company requiring land for excavating ballast, so much per mile of the railway-line for which ballast is obtained, or otherwise as the Collector thinks fit.

Rules under Sec. 214, Land Revenue Code—(*contd.*)

Villagers may remove earth, stone, &c., for their own use without fee with the permission of the Police Patel.

39. Any person may, within the limits of the village in which he resides, remove earth, stone, kankar, sand, muram or other material from the bed of the sea or from the beds of creeks, rivers and nálas, or from any unassessed waste land not assigned for special purposes, for his own *boná fide* domestic or agricultural purposes, without payment of fee, on obtaining the written permission of the Police Patel.

Potters and brick and tile-makers shall be entitled to the same privilege for the *boná fide* purposes of their trade as well as for domestic and agricultural purposes; but they must first obtain sanction of the Mámlatdár in all cases where an extensive trade is carried on, and where excavation of the soil is likely to destroy valuable buildings or land required for public purposes.

If the Police Patel shall refuse permission when the same is applied for under this Rule, an appeal shall lie to the Mámlatdár. But, in such cases as he shall think fit, the Collector may prohibit the Mámlatdár, or the Police Patel, from giving permission without obtaining his previous sanction.

Removal of earth, &c., from village tanks.

40. Any person may, with the sanction of the Police Patel, take free of all charge from village tanks as much earth, stone, kankar, sand, muram or other material as he requires, provided that no stones shall be removed that may have fallen in from the banks of built tanks, and that no excavation shall be made within ten cubits of the foot of the embankment of any such tank.

Collector may permit removal of earth, stone, &c., without charge for works of public utility.

41. The Local Funds, Public Works, and other public Departments and Municipalities may, with the permission of the Collector, and subject to his supervision, remove earth, stone, kankar, sand, muram and any other material from the bed of the sea or from the beds of rivers, creeks, nálas or public tanks, or from any unassessed land, or any unoccupied assessed land not assigned for special purposes, for works of public utility without payment, whether such works be constructed departmentally or by contract.

(5) *Miscellaneous.*

Sales under these Rules how to be conducted.

42. Every sale by auction, under these Rules, of land, or of any right in or over the same, or appertaining thereto, shall be conducted, so far as may be, in accordance with sections 165 to 168, both inclusive, and 170 to 180, both inclusive, of the Land Revenue Code.

IV.—Assignment of Land for Special Purposes. [Section 38.]

Cattle-stands and dhobis' and potters' grounds.

43. Burial and burning grounds, spots near villages on which the village cattle stand, and lands for the use of village dhobis and potters should be assigned for these purposes respectively, according to the reasonable requirements of the villagers without charge.*

V.—Alluvion and Diluvion. [Sections 47 and 214 (*i*).]

Holders of land with shifting boundaries may enjoy up to such boundaries.

44. When a holding is bounded on any side by the bank or shore of a river,† creek or nála, or of the sea,‡ the holder will be permitted, subject in the case of unalienated holdings to such

* The phrase "village cattle" does not include the cattle of any roving grazier who may choose to squat for a few months on the public ground of a village. (I. L. R. 2 Bom. 110.)

† Whatever may be the nature of the tenancy, the occupants of the land abutting on the stream, and not the Government, are entitled to the enjoyment and benefit of the water as it flows past. No doubt, all the occupants of land on the banks being equally entitled, each occupant or set of occupants is bound to use his right so as not materially to interfere with an equally beneficial enjoyment of it by the other occupants. An action will lie where the user by any of the occupants of the common right is unreasonable. But Government cannot arbitrarily curtail or interfere with, at any time during the occupancy, the enjoyment of the water by each occupant as it existed at the commencement of his occupancy and which must have constituted a most important consideration in fixing the amount of land assessment which each occupant agreed to pay. (Printed Judgments of 1882, p. 58.)

‡ The right of the public to fish in the sea, whether it and its subjacent soil be or be not vested in the Crown, is common, and is not the subject of property. This right in certain portions of the sea may be regulated by local custom. Members of the public exercising the common right to fish in the sea, are bound to exercise that right in a fair and reasonable manner, and not so as to impede others from doing the same; and conduct which prevents another from a fair exercise of his equal right, if special injury thereby results to him, is actionable. (I. L. R. 2 Bom. 19.)

Rules under Sec. 214, Land Revenue Code—(*contd.*)

orders as may be legally passed under Rule 46, to occupy and use the land up to such bank or shore, notwithstanding that its position may shift from time to time.

Changes in holdings from alluvion and diluvion to be ascertained and recorded.

45. It shall be the duty of the village officers, subject to the orders of the Mámlatdár or Mahálkari and of the Collector or of the Assistant or Deputy Collector in charge of the táluka, to ascertain from time to time and to record the changes caused by alluvion and diluvion in every holding subject to such changes.

The officer who does the *jamábandi* to give effect to provisions of sections 46 and 64.

46. The village officers shall report to the Mámlatdár when the area of any newly formed alluvial land or island, or of any abandoned river-bed, to which the provisions of section 46 or of section 64 of the Land Revenue Code apply, exceeds the limit prescribed in those sections, and the Mámlatdár shall deal with it under the orders of the Collector or Assistant Collector in the manner prescribed in the said sections respectively.

Land to which sections 46 and 64 do not apply, to be disposed of by the Collector.

Newly-formed alluvial lands and islands, and abandoned river-beds to which the provisions of the said sections do not apply, may be disposed of by the Collector under the rules and orders applicable to unoccupied land belonging to Government.

The officer who does the *jamábandi* to dispose of claims under section 47.

47. Claims to decrease of assessment on account of diluvion under section 47 of the Land Revenue Code shall be heard and disposed of by the officer who makes the annual *jamábandi* settlement.

In order to provide against undue loss of revenue, care must be taken, whenever such claims are allowed, to trace out and assess the corresponding accretions of alluvial land, if any, in the same or in some other village.

VI.—PURPOSES TO WHICH THE APPROPRIATION OF UNALIENATED LAND IS PROHIBITED. [Sections 48 and 214 (*c*) and (*i*).]

48. Land included as unarable in a survey number assessed for purposes of agriculture only may ordinarily be brought under cul-

tivation without extra charge by the occupant of such number, or by any one claiming under him, but such cultivation is prohibited in the following cases (viz.) :—

Land occupied by a road or tank, &c., in an occupant's holding, may not be cultivated.

(*a*) when the land is occupied by a road or by a tank used for irrigation or for drinking or domestic purposes ;

(*b*) when the land is used as a burial-ground ;

(*c*) when the land has been assigned for the use of the village potters, or other public purposes :

Provided that this prohibition shall not apply in the case of a tank, when such tank is used for irrigation only, and waters only land which is in the sole occupation of the occupant, or when the privilege of cultivating the dry bed of the tank has been specially conceded to the occupant.

49. No occupant of land assessed or held for purposes of agriculture only, and no person claiming under any such occupant, may make any use of the land so as, in the opinion of the Collector, thereby to destroy or materially injure the land for cultivation.

Occupant of an agricultural holding may not destroy or injure the land for cultivation.

But, provided this Rule be not infringed, the occupant and any person lawfully in possession of any such land may remove earth, stone, kankar, sand, muram or any other material of the soil thereof for his own *bonâ fide* domestic or agricultural purposes without previous permission and without payment of fee.

But earth, stone, &c., may be removed for the occupant's own use.

50. Compounds to bungalows and patches of open ground surrounding houses, not assessed for purposes of agriculture, may not, if the Collector shall on sanitary grounds think fit in any case so to direct, be appropriated to purposes of agriculture, but the grass shall be kept cut or grazed by cattle.

When compounds, &c., may not be used for agriculture.

51. No unalienated land within the site of any city, town, or village may be excavated, without the previous permission, in writing, of the Collector, for any purpose except the laying of foundations for buildings, the sinking of wells

Excavation of unalienated land within site of village, town, or city prohibited, except for certain purposes.

Rules under Sec. 214, Land Revenue Code—(*contd.*)

and the making of grain-pits. When permission is granted by the Collector to excavate any such land as aforesaid for any purposes other than those above mentioned, such excavation may not be made otherwise than in accordance with such terms as the Collector shall in each case think fit to prescribe.

Growth of prickly-pear on land prohibited.

52. No occupant of any land may suffer such land to be or to become overgrown with prickly-pear or rank grass so as to become dangerous to the health or safety of the neighbourhood.

VII.—Assessment of Land Revenue.

[Sections 52, 100 and 214 (*d*).]

(1) *Unsurveyed Lands.*

Melon-beds not to be assessed.

53. No assessment shall be placed on land in the beds of rivers used for growing melons. The land revenue chargeable on such land shall be deemed to be included in the price of the occupancy thereof obtained in auction under Rule 22.

(2) *Surveyed Lands.*

Assessment of compounds, &c.

54. Compounds surrounding bungalows and patches of open ground surrounding houses up to such limit of area as Government may from time to time fix for each district, shall be subject, as regards their assessment to the land revenue, to the same rules as are applicable to the land on which the bungalows or houses stand.

Survey Rules.

55. The following Rules, unless otherwise directed by Government, shall be observed in the conduct of revenue surveys of lands used, or which may be used, for the purposes of agriculture.

(1) Every separate occupancy recognised in the village accounts shall be separately measured, classed and assessed and defined by boundary-marks, and shall be comprised in a survey number or in a subordinate survey number.

By "subordinate survey number" is meant a portion of survey number bearing a subordinate number and separately demarcated and assessed.

(2) Subject to the provisions of the last preceding Rule the area to be included in the survey number shall be determined under

general or special orders to be issued in this behalf by the Survey Commissioner.

(3) All measurements shall be recorded in a book to be kept in such form as shall be prescribed by the Survey Commissioner for each survey. The said books when prepared shall be preserved as a record of the survey.

(4) The original measurements made by the subordinate survey officers employed for the purpose shall be tested by the officers in charge of measuring establishments in such manner and to such extent as the Survey Commissioner shall deem sufficient.

(5) Village maps shall be prepared under the orders of the Survey Commissioner showing each survey number. The positions of the boundary-marks of each survey number shall also be shown on the said maps.

(6) For the purposes of assessments all land shall be classed with respect to its productive qualities. The number of classes and their relative value reckoned in annas shall be fixed under the orders of the Survey Commissioner with reference to the circumstances of the different tracts of country to which the survey extends and to the nature of the cultivation.

(7) Every classer shall keep a field-book and record therein the particulars of his classification of each survey number and subordinate survey number and the reason which led him to place it in the particular class to which in his estimation it should be deemed to belong. Such field-books shall be preserved as permanent records of the survey.

(8) A test of the original classification made by the subordinate officers employed for this purpose shall be taken by the officers in charge of classing establishments, in such manner and to such extent as may be directed by the Survey Commissioner. The said test shall be an independent test, that is to say, it shall be made by the testing officer in entire ignorance of the original classer's proceedings or records until it has been completed and its results have been finally determined, when only the original classing valuation and the test valuation shall be compared and their separate results recorded.

(9) When rates of assessment have been sanctioned by Government, the assessment to be imposed on each survey number or

Rules under Sec. 214, Land Revenue Code—(*contd.*)

subordinate survey number shall be determined according to the relative classification value of the land comprised therein.*

(10) Matters of detail not provided for in the foregoing Survey Rules shall be determined in each survey in accordance with such general or special orders as the Survey Commissioner, acting under the general control of Government, shall from time to time deem fit to issue.

(3) *General.*

Alteration of assessment when land assessed or held for agricultural purposes is appropriated to non-agricultural purposes.

(56) When unalienated land assessed or held for purposes of agriculture only is subsequently appropriated to any purpose unconnected with agriculture, the assessment upon the land actually so appropriated shall be altered in accordance with the provisions of paragraph two of section 48 of the Land Revenue Code and fixed at the following rates :—

If the village, town or city in which the land is situate is classed, under

Rule 66, in Class I ...	...	Rs. 10	per acre, or ten times the assessment for agricultural purposes, whichever be the greater.
,, ,, II ...	...	Rs. 5	or five times do.
,, ,, III ...	...	Rs. 2	or three times do.
,, ,, IV ...	...	Re. 1	or double the assessment.

If the village, town or city in which the land is situate is classed, under Rule 66, in Class V., no alteration in the assessment shall ordinarily be made.

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*1. A special report for inám villages in tálukas already settled may be dispensed with. The rates sanctioned for adjacent Government villages previously settled may be held applicable to inám villages coming under settlement at any time after the settlement of the mass of the táluka. This order may be deemed sufficient sanction within the meaning of sections 102 and 103 of the Land Revenue Code.—(*G. R.* 6386, *December* 6, 1880.)

2. Before the survey rates are introduced in an inámdár's village, an agreement should be taken from the inámdár that he will pay the village officers according to the scale in force in Government villages, in order to ensure the independence of, and payment of remuneration to, the village officers.—(*G. R.* 7322, *December* 3, 1881.)

VIII.—Register of Alienations.

[Section 53.]

57. The Register of Alienations to be kept under section 53 of the Land Revenue Code shall be in the form of Appendix F.

Form of register.

IX.—Disposal of forfeited Holdings.

[Sections 56 and 214 (*e*) and (*i*).]

58. Whenever it shall appear to the Collector that an arrear of land revenue cannot be readily recovered by any of the means provided in Chapter XI. of the Land Revenue Code other than the forfeiture of the holding in respect of which the arrear is due, he shall declare such holding to be forfeited to Government. But care should be taken that such declaration is not made except in cases of necessity.*

Holdings when to be declared forfeited.

Under special circumstances the forfeiture of holdings under this Rule may be postponed by the Collector for one or more years.

If the holding in respect of which the arrear is due consists of two or more survey numbers, or of two or more portions of land, or estates separately assessed, and the Collector shall be of opinion that the whole amount of such arrear could be realized by the sale of some one or more only of such numbers, portions or estates, he may, in his discretion, restrict the forfeiture to such one or more of the said numbers, portions or estates.

59. The Collector shall cause the land comprised in any forfeited alienated holding to be entered in the records as unoccupied unalienated land, and may

Forfeited alienated holdings how to be disposed of.

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*1. Whenever the land revenue is in arrear, Government is entitled to sell the land and realize its due, whoever is the defaulter. (*I. L. R. 5 Bom.* 74)

2. Section 86 of the Land Revenue Code, 1879, expressly provides that the recovery of dues from inferior holders shall be made under the same rules and in the same manner as prescribed in Chapter XI. for the realization of arrears due to the Government. An exception only is made in the case of section 137, in which the paramount right of Government to recover its land revenue over all other claims is recognized; † but every other rule in Chapter XI. is applicable. Accordingly, where section 153 provides that the Collector may declare the occupancy in respect of which an arrear of land revenue is due to be forfeited to the Government, so he may declare a holding with which he is dealing under section 86 to have reverted to the superior holder. (*G. R.* 3089, *May* 30, 1881.)

† And which obviously could not be made applicable to superior holders.

Rules under Sec. 214, Land Revenue Code—(*contd.*)

dispose of it forthwith, or at any subsequent time, in accordance with the rules and orders in force relating to land of that description: Provided that if the forfeited alienated holding was held for service, and the Collector is satisfied that the failure to pay the land revenue due thereupon arose solely from the inability of the watandár to meet the demand, he may deduct from the forfeited holding a portion of land of which the occupancy-price would be likely to equal the amount of the arrear recoverable, and deal with such portion in accordance with the rules and orders aforesaid, and restore the remainder of the forfeited holding to the watandár, or, with the previous permission of Government, may restore the entire forfeited holding to the watandár, and either remit the arrear of land revenue due, or make such arrangements for its being paid in the future as Government shall in each case sanction.

Forfeited occupancies how to be disposed of.

60. Forfeited occupancies shall be put up for sale for recovery of the arrear due except when the Collector thinks—

(*a*) that owing to the badness of the times, or to the want of demand for land of the description comprised in the occupancy, or to a combination of the neighbouring landholders, or for any other special cause, there will be no bidders at the sale, or that the highest amount bid will be considerably below the upset price of the occupancy; or,

(*b*) that the land comprised in the occupancy is likely to be required either immediately, or within a short time, for any such purpose as is described in section 38 of the Land Revenue Code.

In any of the above excepted cases the Collector shall either cause the land comprised in the forfeited occupancy to be entered in the records as unoccupied, and direct that it be dealt with under the rules and orders in force relating to land of that description, or take steps for having it at once lawfully assigned for any of the purposes aforesaid as he shall think fit.

Rules and orders applicable to sales and purchasers of forfeited occupancies.

61. Every sale of a forfeited occupancy, as such, shall be made subject to the same rules and orders as are applicable to the sale of unoccupied unalienated land, so far as the same are consistent

with the provisions of Chapter XI. of the Land Revenue Code and the provisions of Rules 31 to 33, both inclusive, shall apply to the case of every such sale.

Forfeited occupancy which is not sold how to be dealt with.

62. If at any auction a forfeited occupancy is not sold, the land comprised in such occupancy shall be disposed of in the manner provided in Rule 60.

Restoration of forfeited occupancies.

63. It shall be in the discretion of the Collector to restore any forfeited occupancy at any time on payment of the arrear in respect of which the forfeiture was incurred, together with all costs and charges lawfully due by the defaulter, or on security being given to his satisfaction for the payment of the said arrear, costs and charges within a reasonable period.

No forfeited alienated holding shall be restored without the previous sanction of Government.

Recovery of land revenue due on forfeited holdings which are not sold.

64. When a holding which has been forfeited for default in payment of the land revenue due thereupon is not sold, the arrear payable by the defaulter shall ordinarily be remitted without having recourse to further compulsory process against him. But it is not intended that the right of recovering arrears from defaulters by other means, notwithstanding that their holdings have been forfeited and disposed of without being sold, should be altogether relinquished; in special cases the Collector may, with the sanction of the Commissioner, enforce that right.

X.—Limit of Fines to be levied under Section 61.

Limit of fine under section 61 to be double what would be leviable in a similar case under section 66.

65. The limit of fine to be levied under section 61 of the Land Revenue Code, when land is unauthorizedly occupied and appropriated to any non-agricultural purpose, shall be double the amount of the fine that would be leviable under section 48 and section 66 of the Land Revenue Code, if the same land being in

Rules under Sec. 214, Land Revenue Code—(*contd.*)

the lawful occupation of the trespasser had been appropriated by him to the same purpose without the permission of the Collector.*

XI.—FINES LEVIABLE WHEN UNALIENATED LAND ORIGINALLY APPROPRIATED FOR PURPOSES OF AGRICULTURE IS OTHERWISE APPROPRIATED. [Sections 65 and 66.]

66. For the purpose of determining the amounts of the fines leviable under section 65 of the Land Revenue Code, the Commissioners shall divide the villages, towns and cities in their respective divisions into five classes. As soon as possible after the issue of these Rules, the Commissioners shall publish notifications in the *Bombay Government Gazette*, specifying by name what villages in each district are placed in the first four of the said five classes; the fifth class comprising "all other villages in the táluka," not entered in the first four classes, and which need not be specified by name. The Commissioners may by similar notifications from time to time alter the said classification.

Villages, towns and cities to be divided by the Commissioners into classes.

67. In villages, towns and cities included in the first four classes by the said notifications, the fines leviable under section 65

Rates of fines ordinarily to be imposed under section 65.

*1. Section 61 has no retrospective effect, *i.e.*, its provisions cannot be enforced in respect of any occupation of land which occurred previous to the passing of the Code. But an occupation which had its commencement authorizedly before the passing of the Code may have been continued unauthorizedly since the Code came into force. To such unauthorized occupation, so far as it has continued since the Code came into force, the provisions of paragraphs 2—5 of section 61 are applicable, and inasmuch as such occupation is still unauthorized, the Collector may also proceed against the person in occupation under paragraphs 6 and 7 of that section.—*G. R.* 3274, *June* 25, 1880.

2. If the land is the building-site only and the building was made prior to the passing of the Land Revenue Code, the unauthorized occupation of the ground was concluded before the Act came in force and cannot be dealt with retrospectively. The possession of the ground by the owner of the building became adverse to Government when the building was erected.

If, on the other hand, the land is used, say for cultivation, every fresh use of it constitutes a case of unauthorized occupation to be dealt with under the law at the time in force. In such a case if the occupier is evicted, any building he may have erected, whether prior to the passing of the Act or subsequently, will be forfeited unless removed by the owner.—*G. R.* 6067, *Oct.* 15, 1881.

of the Land Revenue Code shall ordinarily be at the following rates :—

Class I. Rs. 250 per acre
„ II. „ 150 „
„ III. „ 100 „
„ IV. „ 50 „

of the land actually appropriated to any purpose unconnected with agriculture, and at the same rate in proportion for fractions of an acre.

In villages, towns and cities included in Class V. by the said notifications no fine shall ordinarily be levied.

Notwithstanding anything hereinbefore contained, the Collector may, in his discretion, require the payment of a fine not exceeding the rate prescribed for Class I. in any village, town or city in any of the other classes in any special case.

In situations of importance enhanced rates may be prescribed by Government.

68. Notwithstanding anything contained in the last two preceding Rules the amount of fine imposable under section 65 of the Land Revenue Code in respect of of lands within certain limits to be from time to time defined by Government by notification in the *Bombay Government Gazette* in the neighbourhood of railway-stations, large towns, military cantonments, and wherever else Government may deem fit, shall be fixed by the Collector, in his discretion, at rates not exceeding Rs. 500 or Rs. 1,000 per acre, as may be directed by Government in the said notification.

Amount of fine to be levied under section 66.

69. The fine leviable under section 66 shall be fixed by the Collector at his discretion, but shall not exceed five times the amount imposable by him under section 65 of the Land Revenue Code. For the purposes of this Rule, villages, towns, or cities included in Class V. by the notifications issued under Rule 66 shall be deemed to have been included in Class IV.

Special cases will be separately dealt with by Government.

70. In such cases as Government deem exceptional or unusual the amount of the fine to be imposed by the Collector, whether under section 65 or 66 of the Land Revenue Code, will be specially fixed by Government at such rate as they deem fit, notwithstanding anything contained in the foregoing Rules.

Potters and brick and tile-makers exempted from last five Rules.

71. Nothing in rules 66 to 70, both inclusive, shall be deemed to apply to potters and brick and tile-makers, who employ any material of the soil of the land in

Rules under Sec. 214, Land Revenue Code—(*contd.*)

their occupancy for the purposes of their trade, or who erect huts or other buildings on their land for the more convenient pursuit of their trade. In the case of such persons no fine shall be levied under section 65 or 66 of the Land Revenue Code.*

Rules 66 to 70 not to apply to Kánara and Ratnágiri for the present.

72. Nothing in Rules 66 to 70, both inclusive, shall apply until further orders, to the districts of Kánara and Ratnágiri.

XII.—Appropriation of Lands for prohibited purposes or without permission. [Sections 48, 66 and 214 (*i*).]

Procedure to be adopted for summary eviction of occupant.

73. When the occupant or any tenant or other person holding under or through him shall appropriate land in his occupation to any purpose prohibited by Rule 48, or unconnected with agriculture, without the permission of the Collector being first obtained, he shall be deemed to have committed a breach of the conditions of his occupancy; and if after reasonable notice he shall fail to restore the land to its original condition, he shall be deemed to have forfeited his right to occupancy of the land, and the Collector may proceed to evict him summarily in the manner provided in section 202 of the Land Revenue Code.

The Collector may remove or cause to be removed any property, moveable, or immoveable, belonging to the occupant, standing or existing in or upon the land, and the cost of removal shall be defrayed by the occupant himself or in default by sale of the said property.

XIII.—Relinquishment of Occupancies.†
[Sections 74 and 214 (*i*).]

Form of notice of relinquishment.

74. The written notice of relinquishment of an occupancy required by section 74 of the Land Revenue Code to be given

* If a brick-maker unauthorizedly occupies land set apart for a special purpose and covers it with brick kilns, the fine to be levied under Rule 65 must be estimated at double the amount which could have been levied for similar appropriation of soil without permission for a non-agricultural purpose in an authorized occupancy, but for the special exemption in rule 71.—*G. R. No.* 1672, *Mar.* 11, 1882.

† As regards rájinámas and kabuláyats in alienated villages it is necessary to note that they are given in one of the three following ways:—

(1) Absolute relinquishment (section 74 of the Land Revenue Code).

to the Mámlatdár or Mahálkari, shall be in one or other of the forms in Appendix G.

Form of agreement to be entered into by the transferee, if any.

75. The written agreement to be entered into by the persons or by the principal of the persons, if any, in whose favour an occupancy is relinquished, shall be in the form of Appendix D.

Endorsement as to identity required below notices and agreements.

76. Every notice and every agreement given under the last two Rules shall be endorsed by two respectable witnesses to the effect prescribed below each of the said forms, and the Mámlatdár or Mahálkari who receives any such notice or agreement will be held responsible for exercising due care in ascertaining the identity of the person who has signed the same, notwithstanding that such notice or agreement has been duly endorsed as hereinbefore required.

Notices and agreements to be preserved.

77. All notices and all agreements received under Rule 74 or Rule 75 shall be kept in separate files in the records of the Mámlatdár or Mahálkari.

Village accountants to prepare notices and agreements without charge when so desired.

78. It shall be the duty of every village accountant if so desired by any occupant in his village or by any person in whose favour land is about to be relinquished by any occupant in his village, to prepare any notice or any agreement that may be necessary under Rule 74 or Rule 75, without fee or charge of any kind.

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(2) Relinquishment in favour of another person and the agreement executed by that person (section 74 of the Land Revenue Code).

(3) Agreement executed by a person taking up new land (Rule 32 of these Rules).

As regards (1) and (2)—

(*a*) In *unsurveyed* alienated villages inámdárs should continue to exercise the powers as they have hitherto been doing, section 74 not being applicable to such villages.

(*b*) In *surveyed* alienated villages, the inámdárs should, as far as possible, under section 88, be invested where necessary with the powers contemplated by section 74.

As regards (3)—

Section 60 does not apply to alienated lands, and the power of the inámdár in respect of such agreement is unrestricted whether in *surveyed* or *unsurveyed* villages.—(*G. R.* 959, *February* 10, 1882.)

Rules under Sec. 214, Land Revenue Code—(*contd.*)

A village accountant who prepares any such notice or agreement, shall affix his signature beneath the words "written by" on the lower left-hand corner thereof.

XV.—Recovery of Land Revenue.

[Sections 146 and 214 (*f*).]

82. All payments of land revenue shall be made to the officers of the village in which such revenue is due: Provided that,* with the sanction of the Collector, such payments may in special cases be made into the Huzúr or Táluka Treasuries.

Land revenue where and to whom to be paid.

83. In the Ratnágiri and Kánara Districts and in the khoti villages of the Kolába District, land revenue payable in respect of lands assessed for purposes of agriculture only shall, until further orders, continue to be paid in such instalments and on such dates as are now usual in those districts and villages respectively.

Agriculturists' instalments in Ratnágiri, Kánara and the khoti villages of Kolába.

84. In all districts except Ratnágiri and Kánara and in all the villages of the Kolába District, except the khoti villages, the land revenue payable in respect of lands assessed for purposes of agriculture only shall be paid in two equal or nearly equal instalments, on the following dates namely):—

Agriculturists' instalments in other districts.

(*a*) in the Thána and Kolába Districts (excepting the khoti villages of Kolába), the 1st January and the 16th February;

(*b*) in other districts—

in villages placed under Rule 85 in Class I., the 10th December and the 10th January;

in villages placed under the said Rule in Class II., the 10th January and the 10th March;

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* Although the proviso to No. 82 of the Rules under Section 214 of the Land Revenue Code contemplates payments being made within the district to which they appertain, the principle applies to payments in other districts, and the proviso should be so read.—*G. R. No.* 4602, *July* 14, 1882.

in villages placed under the said Rule in Class III., the 10th February and the 10th April:

Provided that—

(1) in districts, or parts of districts where the above dates may be found to be unsuitable, the Collectors may, with the sanction of the Commissioner to whom they are respectively subordinate, fix such other dates as they may deem expedient according to the circumstances of the season and of the villages comprised in them and the character of the crops generally sown;

(2) when the total amount of assessment is Rs. 4 or under, it shall, if the Collector shall so order, be payable in a lump sum at the date of the first instalment;

(3) If the person from whom the year's revenue is due so wishes, he may in any case pay the whole amount at once instead of by instalments.

Method of classifications under clause (*b*) of the last Rule.

85. For the purposes of clause (*b*) of the last preceding Rule the Collectors of the districts to which that clause applies, shall, with the sanction of the Commissioner to whom they are respectively subordinate, classify the villages in the said districts into three classes:

Class I. shall include *kharif* villages in ghát districts and elsewhere where it is necessary that the revenue be secured specially early.

Class II. shall include *kharif* villages in Gujarát and elsewhere where no such special provision is necessary.

Class III. shall include *rabi* villages generally.

Instalments of land revenue to which the last three Rules are inapplicable.

86. Land revenue, to which the provisions of the last three Rules are inapplicable, shall ordinarily be paid in one instalment on such date as the Collector shall think fit in each case to prescribe; but in special cases the Collector may, in his discretion, allow the payment to be made in two or more instalments on dates which shall be fixed by him.

Form of notice of demand.

87. The notice of demand to be issued under section 152 of the Land Revenue Code shall be in the form of Appendix H.

Rules under Sec. 214, Land Revenue Code—(*contd.*)

Village officers to be held responsible for avoiding frequent issues of such notices.

The village officers shall be held responsible by the Collector for warning land-holders verbally from time to time of the dates on which their instalments are due and for using their personal influence in securing prompt payment without resort to notices of demand or other compulsory process, and exemplary punishment should be awarded to any village officer who is remiss in the performance of this duty.

Village officers to report names of land-holders against whom precautionary measures will be necessary.

88. The village officers shall report to the Mámlatdárs or Mahálkaris to whom they are respectively subordinate the names of the land-holders who, they have reason to believe, will not punctually pay their instalments, in order that the precautionary measures authorized by sections 140 to 145 of the Land Revenue Code may, when necessary, be adopted in due time.*

XVI.—Administration of Survey Settlements.

[Section 214 (*g*).]

(1) *Notification of Survey Settlement.*

Notifications of settlement and of period of guarantee now to be made.

89. When a survey settlement shall have received the sanction of Government under section 102 of the Land Revenue Code, a notification shall be published in the district or portion of a district to which the settlement extends, in the form of Appendix J., and the period for which the assessments have been fixed shall be notified in the *Bombay Government Gazette*.

When the settlement is introduced into a portion of a táluka already partially settled, the guarantee will be restricted to the unexpired portion of the period for which the assessments in the first settled portion of the táluka were fixed.

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* Distraints should be made by táluka kárkúns, kulkarnis, talátis and patels, provided that they should be executed only by persons able to read and write. In special cases the Collectors and their Assistants may direct the warrant to any person considered competent to execute it.—*G. R.* 7858, *December* 3, 1881.

Distraints under Section 154 of the Revenue Code may be made in Sind by any tapédár or munshi provided that he can read and write.—*G. R. No.* 3396, *June* 13, 1881.

Period of guarantee in villages settled before 9th March 1858.

90. In isolated villages to which a survey settlement was extended before the 9th March 1858, the settlement shall be understood to have been fixed for a period of thirty years, unless there is specific evidence that a guarantee for a shorter period was given at the time.

(2) *Trees.*

General reservations.

91. The extent to which the right of Government to trees is generally conceded under paragraph two of section 40 of the Land Revenue Code will be specified in the notification issued under Rule 89. The said general concession will ordinarily extend to all trees, except the following (namely) :—

(1) All road-side trees planted by or under the orders of Government ;*

(2) Teak, blackwood, and sandalwood ;

(3) Trees, the produce of which has hitherto been disposed of by Government.

Special reservations.

Trees in groves, trees round temples or places of encampment declared to be such by the Collector, and trees other than teak, blackwood or sandalwood which for any reason are of special value or utility, will be specially reserved at the settlement, and entries to that effect made in the settlement records.

The right to trees of any of the above classes which have already been specially assigned to the occupant or purchased by him, or to trees standing in public places, will of course not be affected by this rule or by the notification isued under Rule 89.†

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* The propriety of laying down a general law concerning road-side trees planted by landholders in their own land was much discussed by the Select Committee on the Revenue Code Bill. That Bill, as introduced, contained a specific provision on the subject (section 107, clause *c*), but it was much opposed, and it has been omitted from section 42 of the Bill as read a third time and passed on the 15th April 1879.

The only way to prevent such road-side trees being cut down is to apply the provisions of Act X. of 1870 for the acquisition for public purposes either of the trees, or of both the trees and the land on which they stand. (*G. R.* 3495, *July* 3, 1879.)

† 1. If trees on the banks of rivers and nálas grow in land included in an occupied survey number, they belong to the occupant. If they grow in the dry beds of streams which are not included within the boundaries of

Rules under Sec. 214, Land Revenue Code—(*contd.*)

92. Notwithstanding anything contained in the last preceding Rule, Government will specially reserve their rights to all trees, or to trees of other kinds than those therein enumerated, whenever it may be deemed expedient so to do.

Government may reserve trees not specified in the last Rule.

93. Of the trees to which the rights of Government are reserved, such numbers or kinds as Government may from time to time direct will be at the disposal of the Forest Department. Lists shall be kept of all occupied numbers, over the trees in which the Forest Department has any control or lien; the clearing of these numbers by the Forest Department shall be arranged in concert with the Collector, and every number when cleared shall be recorded as exempt from all interference in the future on the part of the Forest Department.

Government trees may be placed at disposal of Forest Department.

All reserved trees not placed at the disposal of the Forest Department shall be in charge of the Collector who may dispose of the same, or of the produce thereof, in such manner as he may from time to time deem fit.

94. In tálukas in which the demarcation of forests has been completed, when the right of occupancy of any unoccupied number containing jungle or valuable trees which have not been included in any forest reserve is granted to any person, the Collector may, if he thinks it better to grant the land for cultivation than to keep it for jungle, offer the jungle or such of the trees as he may see fit to the occupant at a valuation to be made by the Collector. If the occupant agrees to

In tálukas in which forest demarcation is completed, occupancy of numbers may be granted by Collector with offer of jungle and trees therein.

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such a number, they are to be treated as Government property, unless and until the occupant can establish his claim to them.

In cases where the boundaries of a field are not laid down on the banks of a stream, the area of the field as recorded in the survey registers should be taken as the guide in determining how far the right of the occupant extends. The occupant should be allowed the benefit of the trees on the area recorded, all beyond it being held to be the property of Government, subject to the provisions of the Land Revenue Code regarding alluvion. (*G. R.* 649, *January* 30, 1882.)

2. *See* also Additional Order No. 2 of Part IV., Forests, of this compilation.

purchase the same, the value shall be recovered from him by the Collector and credited to the Forest Department.

95. In tálukas in which the demarcation of forest reserves has not been completed, the Collector may, if he thinks fit, consult the Conservator of Forests before the occupancy of any land containing jungle or valuable trees is granted; and if the occupancy of any such land is granted to any person, the provisions of the preceding Rule shall apply: Provided that specified trees of a valuable kind shall not be cut down, and that in no case shall the occupancy be granted if the land is likely to be required for forests.

In tálukas in which forest demarcation is not completed, occupancy of numbers containing jungle or valuable trees to be given on certain conditions.

96. Whenever the occupancy of a survey number is disposed of at any time after the first introduction of a survey settlement, trees of the kind specified in clause (3) of Rule 91 shall be excluded from reservation, and shall be disposed of along with the occupancy under the provision of paragraph two of section 62 of the Land Revenue Code.

What trees should be disposed of along with an occupancy.

97. Whenever the right to unreserved trees in any survey number is at the disposal of Government simultaneously with the occupancy of such number, all such trees shall invariably be disposed of to the same person who acquires the occupancy and not to any other person.

The land and the trees thereupon should vest in the same person.

98. When the right of Government to any trees in a survey number has been once disposed of to the occupant, or when reserved trees have been once cut and removed, whether at or before or at any time after the grant of the occupancy, Government will have no further claim to trees of the same descriptions which may afterwards grow in the number, or which may spring up from the old roots or stumps during the occupancy of the said occupant.

When once trees have been cut or disposed of Government to have no right to after-growth.

(3) *Entry of Co-occupants' Names.*

99. On written application being made for this purpose to the Collector or, whilst survey operations are proceeding, to a survey

Co-occupants' names and shares may be recorded.

Rules under Sec. 214, Land Revenue Code—*(contd.)*

officer, the names of the co-occupants of the registered occupant of any survey number and the share in fractional parts of a rupee of each such co-occupant in the occupancy may be entered in the records along with the name and share of the registered occupant of the number: Provided that no such entry shall—

(1) affect the liability of the occupants to Government, or amongst themselves, for the land revenue of the number, or

(2) confer a right to a sub-division of the number below the minimum area fixed under the provisions of section 98 of the Land Revenue Code.

(4) *Inspection, Maintenance, and Repair of Boundary-marks.*

Details of boundary-marks to be furnished by the Survey Department to the Collector.

100. On the introduction of a survey settlement into a district the Superintendent of Survey shall furnish the Collector with a map and statements showing the position, size and description of the boundary-marks erected or prescribed by or under the orders of the Survey Department, with a view to his taking measures for their maintenance and repair under section 124 of the Land Revenue Code.

Digging near an earthen boundary-mark prohibited.

101. The digging of earth close around an earthen boundary-mark for the purpose of repairing it is prohibited. A space of two cubits in breadth all round each such mark is to be left untouched, so as to prevent injury to the mark from water lodging in the cavities from which earth is taken for the repairs.

Boundary-marks to be usually inspected by village officers.

102. Village officers shall examine all the boundary-marks in their respective villages once a year in November or December, and the village accountant shall record in village form No. 3 (Hope's Forms) the condition in which the boundary-marks are found.

Details of all marks found to be out of repair shall be entered in village form No. 4 (Hope's Forms) by the village accountant, and after the lapse of a sufficient time to allow of the repairs to the marks being completed, a second inspection shall be made of every field entered in this register.

Issue of notification by Collector under section 122.

103. Prior to the second inspection, the Collector shall issue a notification under section 122 of the Land Revenue Code requiring landholders to repair their boundary-marks within a period of ten days. The provisions of paragraph two of the said section shall be rigidly enforced in the case of any repairs remaining unexecuted at the time of the second inspection.

Test-inspection by Mámlatdár's kárkun.

104. A further test-inspection of boundary-marks shall be made annually in each village by a Mámlatdár's kárkún. The inspection shall be made in the presence of the village officers and of such of the landholders as may attend. The results of these inspections shall be recorded in the village form No. 3, in the column provided for the purpose, and in column 15 of village form No. 4 (Hope's Forms).

For the first three years after the first introduction of a survey settlement this test-inspection shall extend to all the boundary-marks of each village. After the first three years the following Rules shall be observed:—

(1) For the purpose of táluka inspection of boundary-marks, the number of fields in each village shall be divided into four equal sections, and the fields comprised in one section shall be inspected by the General Duty Kárkún in each successive year. Thus the whole village will be completely supervised in a period of four years.

(2) The division of the boundary-marks of a village into sections as directed in the preceding Rule shall be made once for all by the Mámlatdár personally with the sanction of the Assistant Collector, who should be supplied with the division lists to take the necessary tests of the work performed by the Táluka Officers.

(3) Each General Duty Kárkún shall be duly supplied with lists specifying the fields of each village in his charge which he is required to inspect in a particular year.

(4) The inspections by General Duty Kárkúns must be careful and thorough, and the results of their inspections should be noted in village form No. 3 (Hope's Forms) against each field as indicated in the form.

Rules under Sec. 214, Land Revenue Code—(*contd.*)

(5) The General Duty Kárkún should, when the required inspection in a village is over, sign a certificate at foot of village form No. 3 (Hope's Forms) to the following effect:—

"I hereby certify I have personally examined the boundary-marks of the fields noted by me as examined against each field."

105. When the necessary repairs have all been completed, the Mámlatdár or Mahálkari shall prepare and forward to the Collector, or to the Assistant or Deputy Collector in charge of the táluka, by a date to be specially fixed by the Collector of each district, a general abstract of the Inspection Registers.

General abstract of Inspection Registers.

106. Mámlatdárs and Mahálkaris and Assistant and Deputy Collectors in charge of tálukas will personally examine the boundary-marks of some of the numbers of several villages in every táluka as soon as possible after the completion of the second inspection required by Rule 102. In the case of tálukas which are in the immediate charge of the Collector, that officer shall mark off several numbers in the village registers for examination by the Daftardár or other high officer of his establishment.

Examination of boundary-marks by superior officers.

The results of inspections made under this Rule shall be recorded in the same way as in the case of inspections made under Rule 104.

107. The Commissioners shall during their tours take measures to prevent the inspection and examination required by the foregoing Rules becoming a mere form.

Duty of Commissioners.

XVII.—Appeals [Section 214 (*h*).]

108. Every appeal shall be made in the form of a petition addressed to the authority to whom an appeal lies, and shall be drawn up in concise, intelligible and respectful language, and bear the signature or mark of the appellant or of his duly authorized agent.

Form and contents.

The petition should give the following particulars:—

the name, father's name, occupation and place of residence or address of the appellant;

the name and address of the writer of the petition;

and, if possible, the date of the order or decision appealed against, and the name and designation of the officer who passed it.

The petition should also contain a brief and unexaggerated statement of the facts on which the appellant relies in support of his appeal; and the grounds of the appellant's objection to the order or decision appealed against.

Presentation.

109. Appeals may either be presented to the authority to whom an appeal lies in person, or be forwarded to him by post.

When an appeal is sent by post the postage on the cover containing it must invariably be fully prepaid.

Rejection of appeals without inquiry into their merits.

110. Inattention in any material respect to the requirements of either of the last two preceding Rules will render an appeal liable to be rejected without inquiry into its merits.

XVIII.—Penalties. [Section 215.]

Breaches of the Rules how punishable.

111. Breaches of the general Rules hereunder mentioned shall be punishable on conviction before a Magistrate as follows:—

Clause 1.—(*a*) Whoever without due authority shall take, or attempt to take, any produce of any tree belonging to Government;

(*b*) whoever without due authority shall cut down or remove, or attempt to cut down or remove, any jungle or trees belonging to Government or the right to which has not been conceded by Government;

(*c*) whoever without due authority shall remove, or attempt to remove, the grass or any other produce of land belonging to Government;

(*d*) whoever without due authority shall dig or remove, or attempt to dig or remove, any earth, stone, kankar, sand or muram, or any other material from land belonging to Government;

Rules under Sec. 214, Land Revenue Code—*(contd.)*

shall be punished with imprisonment of either description which may extend to one month, or with fine which may extend to five hundred rupees.

Clause 2.—(*a*) Whoever shall unlawfully cultivate land of which the cultivation has been prohibited under Rule 48;

(*b*) whoever shall unlawfully destroy or materially injure for cultivation land held for purposes of agriculture only;

(*c*) whoever shall appropriate for purposes of agriculture compounds to bungalows or patches of open ground surrounding houses after such cultivation has been prohibited by the Collector on sanitary grounds;

(*d*) whoever shall, except for the purpose of laying the foundations of buildings, sinking of wells, or making grain-pits, within the site of any village, town or city, excavate, without the previous permission in writing of the Collector, or, when such permission has been granted, shall excavate contrary to any terms prescribed by the Collector;

(*e*) whoever shall suffer his land to be or to become overgrown with prickly-pear or rank grass so as to be dangerous to the health or safety of the neighbourhood;

shall be punished with fine which may extend to five hundred rupees.

Clause 3.—(*a*) Whoever shall dig earth within a space of two cubits of any earthen boundary;

(*b*) whoever shall use land near villages which has been assigned for any of the purposes mentioned in Rule 43 for any other purpose, or shall use for any of such purposes land near villages which has not been so assigned;

shall be punished with a fine which may extend to ten rupees.

Clause 4.—Whoever, being a village officer,

(*a*) shall take or levy any fee for preparing any document or copy or extract of any document which he is bound by any Rule or Order to prepare without charge;

(*b*) or who shall charge any fee for granting any permission which he is authorized by these Rules to grant but for which no fee can lawfully be charged;

shall be punished with the punishment provided in clause 1 of this Rule.

Clause 5.—Whoever, being a village officer,

(*a*) shall refuse or neglect to prepare any document or copy or extract of any document, or to sign or certify the same, in the manner prescribed by any of the Rules;

(*b*) or shall neglect to make any report or to perform any duty which he is required by any of these Rules to make or to perform;

(*c*) or shall neglect to inspect the boundary-marks in his village in the manner and at the time required by these rules;

shall be punished with the punishment provided in clause 2 of this Rule.

Nothing in this Rule shall prevent any person from being prosecuted under any enactment for any offence punishable under these Rules, or from being liable under any enactment to any other or higher penalty than is provided for such offence by this Rule: Provided that no person shall be punished twice for the same offence.

Rules regarding Alluvion and Diluvion owing to changes in the course of the River Indus or other waters, in the Province of Sind.

1. Any lands separated from the main banks of the River, or sea-shore, by a channel which contains water throughout its length during the whole year is to be considered an island.

2. Islands newly thrown up by the River, or sea, are the property of Government.

3. All new land not separated from the main land by a channel containing water throughout its length during the whole year is to be considered as the property of the owner of the old land to which it is annexed, subject to Government assessment in the cases provided for in the rules below.

4. These rules hold good only in cases of lands newly thrown up by the River in such a manner as to make it impossible to identify them with any lands which may have previously existed on the same spot, and been since swept away. If the River, by a sudden change in its course, cut off a portion of an estate without gradual encroachment, so as merely to separate such portion of land from the rest of the estate to which it previously belonged without destroying the identity or preventing the recognition of the land so cut off, then the land on being clearly and unmistakably identified, will continue to be held on the same tenure as before its separation.

Alluvion and Diluvion in Sind—(*contd.*)

5. But no weight should be allowed to the pretended recognition of lands which have been so entirely swept away at some previous period, that they disappeared during the whole of a season and which, on the river again changing its course, are supposed to re-appear merely because in situation or composition they somewhat resemble those previously swept away. These would come under Rules 2 and 3.

6. Where lands, bordering on the river, are leased out by Government, it is to be the rule, that, whenever one-tenth of the land or a portion of the land yielding one-tenth of the rental may be swept away, the lessee can claim a resettlement of the estate. On the other hand, the Government can assert no claim to assess any increment to land so leased, unless it amount in extent or produce to more than one-tenth of the estate leased.

According to the Rule in the N. W. Provinces, para 210.

7. This rule should be observed, even though no provision for such a contingency may have been made in the original lease.

8. When a revision of settlement takes place under these rules on the plea of Diluvion if the total assets of the whole estate settled be found to be from any cause, as large as, or larger than they were computed to be at the time of settlement, the claim for reduction in the lease will be disallowed. If they be less, a proportionate deduction will be allowed, the assessment being calculated on the whole existing assets in the same manner as when the settlement was originally made.

Rule para. 262 of directions for Revenue Officers, N. W. Provinces, No. 211.

9. And when Government claim an increase of assessment, on account of increment above one-tenth, the lessee may, at his option, either have the whole estate re-settled, or come under a new engagement, for the sum which may be demandable upon the newly accrued portion alone.

10. Remissions of assessments granted on account of Diluvion in fixed leases, are to be reported to the Commissioner; and likewise increase of assessment on account of Alluvion.

11. Holders of lands in Jághír, or on other rent-free tenure, are to be left in possession of all lands attached to their estates under Rule 3, provided the increment do not exceed, by more than 10 per cent., the land which they held at the date of the latest confirmatory grant issued by competent authority.

12. If the increment exceed 10 per cent., all lands beyond those previously held under sanction of competent authority, will be liable to assessment, but remain the property of the holder of the original rent-free estate.

13. In cases, however, where a certain fixed quantity of land has been granted rent-free, and not a village, Mukan or estate, then the holder can have no claim on any increment to his original lands.

14. If, on any claim being preferred by Government to assess lands newly attached to rent-free estates it be proved that more, or an equal amount of land has since the date of the last confirmatory grant to the rent-free holder, been lost by Diluvion from the same estate, then the claim to assess shall be disallowed.

15. This plea is, in no case, to hold good, with reference to lands which had been swept away before the conquest of Sind.

16. If a rent-free estate be entirely carried away, the holder will have no claim to a new grant, nor, in the event of new lands being subsequently formed by the river again receding, will the rent-free estate be revived. The new lands will be an increment to the Estates to which they are attached under Rule 3.

17. Where villages or estates have been granted, subject to payment of quit-rent, Government will not claim to assess any increment, until it reaches 10 per cent.; when it exceeds 10 per cent., the whole of the increment will be liable to the ordinary assessment.

18. The same rules which would apply to alienations, or leases of the whole Government share, shall be applicable where only a fractional portion of such shares has been alienated, the addition or deduction, as the case may be, being proportioned to the extent to which

Example.

A holds in Jághír ¼ of the Government Revenue of the village of Syadpur producing Rs. 10,000 per annum.

(*a*) Case.—Land producing Rs. 500 per annum is swept away. A will receive only ¼ of the remaining Rs. 9,500.

(*b*) Case.—A similar amount of land is added. A will then receive ¼ of Rs. 10,500.

(*c*) Case.—Land yielding a Revenue of Rs. 2,000 is swept away. A will receive only ¼ of Rs. 8,000.

(*d*) Case.—Land yielding Rs. 2,000 is added. A has still a right to only ¼ of Rs. 10,000.

(*e*) Case.—The village in 1848, when the grant was confirmed to A, yielded Rs. 15,000 Government Revenue; though latterly, the value has been only 10,000. In this case, if land yielding Rs 2,000 be added, A will receive a fourth of the additional 2,000 as well as of the Rs. 10,000.

Alluvion and Diluvion in Sind—(*contd.*)

the rights of Government may, in each instance, have been alienated.

19. Claims founded on grants by competent authority, specifying particularly the alienation of alluvial land formed by increment, must be decided especially on consideration of the terms of the grant.

20. If cases should arise in the Civil Courts involving questions of Alluvion and Diluvion, the litigants should be called upon to prove, if possible, the local usage; and by that, if the practice be clear and free from doubt, the Court should decide all cases relating to alluvial land between the parties whose estates may be liable to such usage. Where this proof fails, the Court should decide in the spirit of the above rules.—*Comr. in Sind May* 22, 1852.

Rule 3 of the Rules regarding Alluvion and Diluvion in Sind applies to the owner of land not to the occupant of Government land.—*G. R. No.* 1649, *March* 11, 1882.

2. **Arrears.**—The principles which have been approved for the guidance of Collectors in seasons of agricultural distress are (1) that time should be liberally allowed to reduced agriculturists for the payment of their land revenue, and (2) that the ryot's means of carrying on the cultivation of his holding should on no account be impaired. The object of Collectors should be, while exerting a judicious activity in recovering the just and moderate dues of Government, to protect and encourage the providers of the public land revenue. The struggling cultivator is of course to be carefully discriminated from the occupant who tries to elude the collection of assessment which he is perfectly well able to pay, and arrears are to be exacted from the latter class by a strict application of the processes provided by the law.—*G. Circ. No.* 4454, *Aug.* 25, 1879.

The following opinion of the Legal Remembrancer, in which Government concurred by their Resolution No. 5730, Oct. 27, 1879, concerns cases in which the occupancy right is sold under Sec. 153 of the Land Revenue Code and the proceeds exceed the arrear of revenue due by the defaulter.

As no express provision has been inserted in Section 153 of the Code as to the disposal of the excess, if there should be any, and the second paragraph of Section 183 is also applicable to *all* cases of sales in realization of arrears, the excess must be treated as a sum to

the defaulter's credit and claimable by his creditors. Paragraph 3 of Government Resolution No. 3310, dated 24th June 1879, which was quite in accordance with the law in force at the time it was passed, is therefore now superseded by the above provisions of the Code to the contrary.

The provisions of the Land Revenue Code cannot be put in force for the recovery of the revenue demand due on land situated beyond the limits of the Bombay Presidency.—*G. R. No.* 2877, *May* 21, 1881.

When a "recognized share" of a survey number has been put up to auction for arrears has not been purchased and is not accepted by the other sharers, the latter cannot be compelled to accept the forfeited share, nor can the assessment be levied from them.—*G. R. No.* 2235, *April* 5, 1882.

With reference to the question of the grant of remission or the temporary suspension of the collection of arrears of land revenue, His Excellency the Governor in Council considers that when a Collector finds that there are special exceptional circumstances whether of season or otherwise in any year which prevent for the time being the punctual payment of the land assessment by the ryots, and that more liberal remissions and relief than he is authorized to grant are required, he should report the facts of the case to Government for orders in place of having immediate resort to the sale of the holdings and the distraint of the property of the defaulting cultivators.—*G. R. No.* 4297, *July* 25, 1881.

3. **Intestate Occupants.**—The object of Section 72 of the Land Revenue Code is to enable the Collector to dispose of the occupancy of an occupant dying intestate, and to stay the operation of the law regarding property left by persons dying intestate until the occupancy has been sold and any arrears due to Government secured, after which the property can be dealt with under the ordinary law applicable thereto.

If the term 'occupant' in Section 72 is taken invariably to mean 'registered occupant,' and if the Collector refuses to recognize any one else but the registered occupant for the purposes of Section 72, it is quite clear that much hardship will often ensue.

The term 'occupant' in Section 72 is applicable to occupants generally and not to registered occupants only, and the intestacy of the registered occupant ought not to be considered sufficient cause

for proceeding under Section 72 until enquiry has shown whether the occupancy has not passed to some other person who is in lawful possession.

The term 'occupant' should be taken in its general sense. There is no difficulty in so understanding it, if it is remembered that the only object of the section is that when intestate property consists of an occupancy before it is treated as intestate property under the law for the time being in force respecting such property, the Collector should be able to secure the payment of any arrears due to Government; and the obvious step preliminary to proceeding under that section is to ascertain that the occupancy to be dealt with is actually intestate property whether the occupant be registered or not.—*Leg. Rem. No.* 379, *Mar.* 28, 1882; *G. R. No.* 2711, *April* 26, 1882.

4. **Security.**—Security bonds should usually be taken only from large and solvent ryots, in cases in which there may be some doubt about their willingness to pay. Full discretion is vested in Collectors to do as they think fit on this subject.—*G. R. No.* 6954, *Dec.* 11, 1875.

5. **Pauper Cultivators.**—It is not expedient or desirable to issue any order prohibiting absolutely the grant of the occupancy of land to pauper cultivators. In allowing land to be taken up for cultivation by persons who possess little or no capital the Collectors must exercise their discretion on consideration of the varying circumstances of different districts. In collectorates inhabited in parts by hillmen and tribes whom it is desired to wean from their wild life and induce to take to cultivation and a more settled mode of existence, it would be obviously impolitic to refuse land to applicants merely because they were destitute of capital.—*G. R. No.* 4297, *July* 25, 1881.

6. **Waste lands.**—The Collector can at his discretion withhold from cultivation all lands whether in revised villages or not, which have been thrown up consequent on non-payment of the assessment.—*G. R. No.* 1902, *April* 11, 1874.

7. **Trees.**—The occupants of all survey numbers containing fruit trees, (except those used for drawing toddy from), the right to which belongs to Government, may extinguish the right of the

State during their occupancy by the payment of ten times their average revenue during the last five years, and may thus acquire the full proprietory title to them.

If the occupancy of the land is relinquished, the right to the fruit trees will lapse, but it will extend to the right of cutting them down should the occupant so desire.

Government must trust to the self-interest of the occupants prompting them to keep existing fruit-trees standing as long as they are profitable, and, with the knowledge that all they can do to their lands is for their own benefit, to replace them by others if they should require to cut them down.—*G. R. No.* 52, *Jan.* 6, *and No.* 535, *Jan.* 29, 1875.

8. The cess on jack-trees was everywhere abolished from the date of the introduction of the Settlement, and the trees remain the property of the owners.—*G. R. No.* 2067, *May* 27, 1868.

9. The rule which required occupants of survey numbers to obtain the permission of the Mamlutdar before cutting down unreserved trees in their own numbers, was cancelled, as being likely to destroy the feeling of property in the trees and to deter the ryots from preserving them.—*G. R. No.* 734, *Feb.* 27, 1866.

10. The following order relates to trees, other than the specially reserved kinds, growing on the banks of rivers or nalas touching or running through occupied numbers:—

1.—If the trees grow in land included in an occupied survey number they belong to the occupant. If they grow in the dry beds of streams which are not included within the boundaries of such a number, they are to be treated as Government property, unless and until the occupant can establish his claim to them.

2.—In cases where the boundaries of a field are not laid down on the banks of a stream, the area of the field as recorded in the survey registers should be taken as the guide in determining how far the right of the occupant extends. The occupant should be allowed the benefit of the trees on the area recorded, all beyond it being held to be the property of Government, subject to the provisions of the Land Revenue Code regarding alluvion.—*G. R. No.* 649, *Jan.* 30, 1882.

11. **Land in occupation of Government.**—No charge is to be made for ground rent or assessment on account of

land held by any department of Government.—*G. of I. No.* 3053, *Sept.* 20, 1873.

12. The Commissariat Department is allowed to occupy such grass-lands as it requires without payment: but measures are to be taken to prevent the unnecessary occupation of land, and to ensure the full charge for the rent of the lands held being debited in any administrative accounts which the Department may render. This rule applies to all inter-departmental charges.—*G. of I. No.* 225, *Aug.* 28, 1871; *Secy. of State, July* 11, 1872.

13. When the Military Authorities desire to appropriate any lands for elephant-hunting, grass-preserves, or other Commissariat purposes, they should submit to the Local Government in the Revenue Department a well-considered estimate of the profit which they expect to derive from the measure. It will be the duty of the Local Government in the Revenue Department thereupon to take into account the revenue which would be sacrificed, and to decide whether the State occupation of the land is or is not expedient."—*G. of I. No.* 371, *Jan.* 24, 1880.

14. **Rights of grazing.**—The following is from a judgment of the High Court in a case in which the right of free grazing had been claimed by owners of cattle coming from other collectorates:—"Bombay Act I. of 1865, Section 32, enacts that the land thereby authorised to be set apart for 'free pasturage for the village cattle' and for certain other purposes therein specified, shall not be otherwise appropriated or assigned without the sanction of the Revenue Commissioner. It is perfectly absurd to suppose that the term 'village cattle' includes the cattle of any or every roving grazier who may choose to squat for a few months on the public grounds of the village and to allow his cattle to prey upon the lands set apart for the villagers. And the Act does not vest the right of sanctioning such a diversion of the village grazing ground in the villagers themselves, but in the Revenue Commissioner, whose assent it is not pretended has been obtained by the plaintiff. So far from condemning the Collector for his intervention, we think that his conduct was praiseworthy in putting an end to such an abuse as appears to have grown up in his collectorate, and in insisting upon the preservation of the village grazing grounds and the Government Forest for the purposes for which they are properly reserved."—*Special Appeal No.* 279 *of* 1876.

15. **Minerals.**—In grants of Government waste land for cultivation in the Bombay Presidency and in similar grants where the land continues to be the property of Government, Sec. 69 of the Land Revenue Code renders an express reservation of Government rights to minerals unnecessary in leases or kabuliyats. But when land is transferred to the ownership of any person so that it would come within the meaning of the term alienated as defined in Sec. 3 (19) of the Code, the rights of Government and of the assignees of Government in that behalf to minerals and to facilities of access thereto should be expressly reserved by a clause to the following effect:—"The rights of Government to all minerals and mineral "products in the land, together with rights of way and all other "reasonable facilities for reaching, working, and removing such "minerals, are hereby expressly reserved."—*G. R. Nos.* 6530, *Dec.* 6, *and* 6688, *Dec.* 15, 1879.

16. **Partition of Numbers.**—The law and rules now in force on the subject of partition of numbers will be found in Secs. 113 to 117 of the Land Revenue Code. These rules apply to partitions under decrees of courts as well as on applications from private parties, and would appear to supersede all former orders on the subject.

In the division of an estate paying land revenue to Government the Collector is bound by the rules laid down in Sec. 113 of the Land Revenue Code whenever they are applicable. If a Court assigns rights in specified areas in survey numbers of less extent than the minima prescribed under Section 98 of the Code, these rights cannot be registered in the Government accounts, or be otherwise recognized by Government.—*G. R. No.* 7052, *Nov.* 23, 1881.

17. The scale of fees given at page 178 of the High Court's Circular Orders relates to travelling expenses only and not to the cost of carriage required by the Collector's surveyor, which if necessarily and properly incurred may be recovered as a revenue demand from the sharers or persons interested in the partition.

The parties interested in the partition should in the first instance be called upon to furnish whatever assistance in the way of carriage or labourers the Collector's surveyor may require; and only in the event of a necessity for employing hired labour should the cost thereof with other contingent expenses be recovered as a revenue demand.—*G. R. No.* 6280, *Sep.* 4, 1882, *with Leg. Rem. Report.*

18. Clerks and Karkuns of the Revenue Departments employed in the partition of estates under order of a Civil Court, receive from the Court travelling allowance for the days occupied at certain fixed rates.—*G. G. Notif. March* 17, 1876.

19. When land is sub-divided by the Court, the sub-divisions may be recorded according to the Court's order as pôt numbers, but the parties themselves are to be left to preserve the boundaries of the new sub-divisions, for which the Government officers are in no way responsible.—*G. R. No.* 2595, *May* 29, 1872.

20. **Huzur Surveyor.**—In each collectorate a competent and trustworthy Surveyor has been appointed, thoroughly acquainted with the details of all branches of the Revenue Survey, so that a Collector may not be compelled to call on the Superintendent of Survey, after the Survey establishments have left the district, to send Surveyors to do odd pieces of Survey work.

In the division of numbers under decrees of Civil Courts, in the cases of compensation for land taken for railway purposes or public works, and in the correction of Survey maps and papers consequent on these and similar alterations, and in connection with forest reserves, there is generally ample employment for a Revenue Surveyor in each collectorate. But there is nothing to prevent a Collector from employing the Surveyor in any other way in which his services can be utilized, provided that the duty for which he is specially employed receives his first attention. It would therefore add to the value of the Surveyor if he could take levels and make estimates of quantities, or a survey for a cleared road: but these qualifications should not be insisted on, and might perhaps be acquired sufficiently after appointment. In general it will not be required that the Surveyor should have a knowledge of English, and in any case an imperfect knowledge of English should be preferred to an imperfect knowledge of Survey work.—*G. R. No.* 3861, *Oct.* 19, 1868.

21. These Surveyors are to be selected from men actually on the establishment of a Superintendent of Survey: if any other person be appointed, the previous sanction of Government must be obtained.—*G. R. No.* 3233, *Aug.* 26, 1868.

22. **Assistance to Superior Holders.**—The following orders relate to assistance to be given to superior holders of Government land. It is to be noted that under Sec. 87 of the Land

Revenue Code, cl. 2, such assistance is to be given for the recovery of such amount as appears to be *lawfully due*. (The orders regarding assistance to superior holders in Inam land will be found later on in chapter XXIV.)

The term "tenant" is used in the Act (the Land Revenue Code) when it is intended to signify that such person derives his right to his holding from his landlord or his landlord's predecessors in title. Such landlord must in the sense of the Act invariably be a superior holder, which signifies a holder entitled to receive from other holders rent on account of their holdings whether on his own account or on behalf of Government.

The term "inferior holder" is used in the Act when it is intended to signify the simple fact of the payment of or liability to pay rent by a holder to a superior holder. It is in no way inconsistent with clauses (14) and (15) of Section 3 to say that a tenant is an inferior holder.

Section 83 of the Act comprehends every possible kind of tenancy to which the Act can relate. The use of the word "tenant" is essential in it because the section settles the general relationship existing between landlord and tenant for the purposes of the Act, and includes certain tenancies in respect of which there is a presumption as to tenure.

There is thus really no distinction between a tenant and an inferior holder except in the use of the terms, the one to express derivatory right from the landlord, the other to express a liability to pay rent to the landlord.—*G. R. No.* 6841, *Oct.* 30, 1880.

A mortgagee in possession is a superior holder and is entitled to assistance until he loses possession by due course of law.—*G. R. No.* 5406, *Sept.* 17, 1881.

Section 86 of the Land Revenue Code, 1879, expressly provides that the recovery of dues from the inferior holders shall be made under the same rules and in the same manner as prescribed in Chap. XI. for the realization of arrears due to the Government. An exception is only made in the case of Section 137 in which the paramount right of Government to recover its land revenue over all other claims is recognized; but every other rule in Chap. XI. is applicable. Accordingly where Section 153 provides that the Collector may declare the occupancy in respect of which an arrear of land revenue is due to be forfeited to the Government, so he may declare a holding (let by a survey occupant to a tenant) with

which he is dealing under Section 86 to have reverted to the superior holder, if the tenant fails to pay the rent due on it.—*G. R. No.* 3089, *May* 30, 1881.

A (a registered occupant in Kanara) holds a survey number assessed at Rs. 10, of which half belongs to his brother *B* living separate from him ; *B* leases his land for a fixed rental of Rs. 7 to *C* on Mulgeni tenure, *i.e.* a tenure which confers a proprietary title in the soil. The latter in his turn rents it to *D*, a chalgenidar or tenant-at-will for Rs. 10. If *A*, *B*, & *C* each apply to the Mamlatdar for assistance for the recovery of their rent from their inferior holders, viz. *B*, *C*, & *D* respectively, and if precautionary measures are necessary, D's crop should be attached and Rupees 10 should be recovered from it. From the sum so recovered Rs. 3 should be paid to *C*, Rs. 2 to *B*, and Rs. 5 to *A*.—*G. R. No.* 7057, *Nov.* 24, 1881.

When there are special terms in the counterpart of the lease on which the termination of an annual tenancy is conditional, those terms should be observed, as the provisions of the second clause of Section 84 of the Land Revenue Code are not intended to interfere with the right of the landlord and tenant to make such special terms but are applicable to ordinary leases.—*G. R. No.* 5400, *Aug.* 11, 1881.

23. **Receipts.**—Section 58 of the Revenue Code entitles subsharers paying in money on account of their khâtedârs or superior holders to written acknowledgments, and the practice should be carried out from next revenue year. Whether the entries shall be made in regular receipt books or on separate pieces of paper may be left to the option of the payers, but the keeping of the former should be encouraged.—*G. R. No.* 3134, *May* 16, 1877.

24. **Alterations in Records.**—Alterations of tenure should be noted in all survey documents. When land is alienated for the construction of dharmashalas, schools, &c., or for the performance of village service and other public purposes, the Collector should inform the Survey Department in view to the necessary corrections being made on the maps and other survey records.—*G. R. No.* 4107, *July* 17, 1876.

25. **Maps.**—When village maps are destroyed by neglect or careless usage within five years of being supplied, new copies are to

be paid for by those who have caused the loss; but in such cases the orders of Government should be taken.—*G. R. No.* 3292, *May* 23, 1877.

Takávi.

[Takávi or Tagai is the term used to express loans made by Government to ryots either for the improvement of their land or to assist them under particular distress. The Land Improvement Act (No. 26 of 1871) applies only to the first sort, and the following extract from a speech of Lord Mayo's shows the objects of the Act.]

26. "I have heard it stated that by the passing of this Bill the Government have announced their intention of refusing advances for agricultural purposes that may not strictly come under the head of agricultural improvements. I can only say that this is not the intention of the Government, and it is possible that there still may be certain loans necessary, particularly under pressure of famine and distress, such as have been given in former years under the Takávi system, which it is absolutely necessary that we should make. There is nothing in this Bill to prevent this still being done.

"The whole object of the Bill is to put on a more systematic footing the system of loans for permanent agricultural improvements, which can have no other effect except that of adding permanently to the value of the land and increasing the value of the property.

"I commend this Bill to the attention and consideration of Local Governments, believing that it will not only have the effect of benefiting the people, but will also bring the officers who are engaged in carrying out its provisions into a most agreeable contact with the people, and increase those kindly feelings which ought to exist between the rulers and the ruled."

27. **Rules under Act 26 of 1871.**—Advances under these rules will be made from such sums as the Governor-General in Council may allot to the Government of Bombay, or otherwise.

(2) Applications for advances shall be made in writing to the Collector of the district, the Assistant or Deputy Collector in charge of the sub-division, or to the Mámlutdár in charge of the taluka The personal attendance of the applicant is not necessary.

(3) The application shall state—

(1)—The name, caste, parentage, profession, and residence of the applicant.

Land Improvement Rules—*(contd.)*

(2)—The amount of the advance applied for.

(3)—The nature and description of the work for which it is required.

(4)—The security offered for repayment.

In the case of an application for an advance exceeding Rs. 1,000, the application shall further state—

(5)—Whether the applicant proposes to supplement the advance by any private capital, and if so, to what extent.

(6)—The estimated total cost of the proposed work and the probable period that will be occupied in its construction.

(7)—The village and local revenue sub-division in which the land to be benefited is situated; the position, character, and area of such land; and should it consist, in part or wholly, of numbered and measured fields or plots, the numbers of the same.

(8)—The applicant's rights or interests in the land to be benefited and in any other land offered as security, and whether there are any, and, if so, what incumbrances on such rights or interests.

(9)—The advantages expected to result from the work.

(10)—The manner and extent to which the proposed work will affect (favourably or injuriously) adjoining or other lands.

(11)—The amount and number of the instalments by which the advance is to be repaid, principal and interest, and the dates of such instalments.

(4) When the application is for an advance not exceeding Rs. 1,000, the officer to whom it is presented shall ascertain, as far as possible, from the oral statements of the applicant, or otherwise, the particulars numbered (5) to (11) above. These particulars shall be recorded on the application, and shall be signed by the officer, read over to the applicant, and acknowledged by him to be correct.

(5) If the application be for a sum exceeding Rs. 1,000, and any of the particulars required by Rule 3 are wanting, the officer receiving it may either return it for correction, or proceed as required by Rule 4.

(6) The statements under head (8) in Rule 3, whether contained in the application or recorded under Rule 5, shall at once be

tested, by reference to such records as may be accessible to the officer to whom the application is made.

(7) If the officer receiving the application be not authorized by Government under Section 3 of the Act to exercise the powers of a Collector, he shall forward the application to the Collector, who shall either dispose of it himself, or refer it to an authorized officer for disposal.

(8) If the Collector or other authorized officer (hereinafter called "the Collector") considers that there is a *primâ facie* reason to believe that the application should be granted, he shall have it entered in the register of applications, and shall order a local inquiry. If not, he shall reject it.

(9) There shall be a local inquiry in every case to be conducted by such persons and according to such rules as Government may prescribe. It shall be directed to testing and verifiying the statements required by Rules 3 and 4.

If the officer receiving the application has failed by examination under Rule 4, to obtain information under any of the headings (5) to (11) the omission shall be supplied in the local inquiry.

(10) When the work to be undertaken will cost more than Rs. 5,000, and requires professional skill, the applicant shall submit to the officer making the local inquiry an accurate plan, specification, and estimate. If he is unable to furnish these the Collector may have them prepared on his behalf, first requiring him either to deposit such sum as may, in the opinion of the Collector, be sufficient to cover the cost, or to give security for the repayment of it.

(11) On the completion of the inquiry, the officer by whom it was made shall forward to the Collector the whole of the papers with his own opinion and recommendation. If the Collector thinks further inquiry necessary, he may either make it himself or remand the case to the official who made the first inquiry, or transfer it to any other official authorized to conduct such inquiries for further investigation.

(12) If the Collector is satisfied that the advance may properly be made, or that a less sum than that asked for may properly be granted, he shall record a decision to that effect, and may then, if the amount of the advance to be made does not exceed that within his power to advance, at once grant a certificate for it under Section 14 of the Act.

Land Improvement Rules—(*contd.*)

(13) The different authorities may make advances under the Act in each case as under:—

Assistant or Deputy Collector duly authorized under the Act	Up to Rs.	1,000
Collector	,,	2,500
Commissioner	,,	5,000
Local Government	,,	10,000

Grants above Rs. 10,000 require the sanction of the Government of India. Any of the above authorities may, if they think that the advance should not be granted refuse it, or may order further inquiry, if they think fit. On receipt of the orders of the authority competent to grant the advance, the Collector or other Officer shall issue a certificate for the amount.

(14) When the Assistant or Deputy Collector or the Collector rejects the application for an advance, an appeal shall lie to the Collector or the Commissioner, as the case may be, who may, if the amount be within his competence to grant, direct the Assistant or Deputy Collector or the Collector, as the case may be, to grant a certificate. If the amount be beyond the competence of the appellate officer he shall report the case for the orders of the authority competent to grant it. Decisions by Commissioners rejecting applications shall similarly be open to appeal to Government.

(15) The Commissioner, or Government may call for the record in any case, and pass such orders as may be within their competence.

(16) When the advance applied for does not exceed Rs. 1,000, no charge shall be made for serving notices under Sections 7 and 11 of the Act. When the advance applied for exceeds Rs. 1,000, but not Rs. 5,000, the serving of any notice which may be necessary shall be paid for by the applicant at a rate not exceeding half that fixed for the service of notices by revenue courts in the district in which the land is situated. When the advance applied for exceeds Rs. 5,000, the rate shall be that fixed for serving notices by such courts.

(17) When a certificate is granted, it shall be endorsed by the applicant to the effect that he has understood and agreed to all the terms, and shall be signed by him in the presence of, and shall be attested by, two witnesses. If property other than that of the applicant is pledged or mortgaged as security for the repayment,

the certificate shall be similarly endorsed, signed, and attested by the sureties and witnesses; and if the applicant is a tenant who cannot furnish security under Section 7 of the Act, the certificate shall be signed by his landlord and attested by two other witnesses.

(18) The certificate shall be retained in the office of the Assistant or Deputy Collector or the Collector, as the case may be; one copy shall be given to the applicant, and when advances are made payable at any taluka or other subordinate district treasury, a copy of such certificate shall be sent to such treasury.

(19) Except with the special sanction of Government, no advance not exceeding Rs. 500 shall be made, unless it be repayable with interest within seven years from the date of the advance, and no advance exceeding Rs. 500 shall be made without such sanction, unless it be repayable within 12 years from such date. If the proposed period of repayment exceeds 20 years, the sanction of the Government of India must be obtained.

(20) The interest charged on advances shall for the present be 6¼ per cent. per annum.

(21) Government may, subject to the provisions of Rule 20, make rules for the repayment of advances with interest, and for regulating the instalments and the place and time of repayment. Any person wishing to repay the advance received by him, or instalments of it, at an earlier date than that fixed in the certificate, may do so with the permission of the Collector.

(22) All payments shall be made at the office of the Mamlutdar in whose taluka the land to be improved is situated. The Mamlutdar shall keep a register of advances and repayments in such form as Government may prescribe.

(23) Instalments may be suspended by order of the Commissioner for any reason that would justify suspension of the revenue demand. The Commissioners may order the suspension of instalments without reporting the suspension to Government.—*G. R. No.* 5679, *Sept.* 29, 1881; *G. of I. No.* 210 *R., Oct.* 31, 1881.

(24) No project shall be divided. After an advance has been sanctioned, and the whole or part thereof expended, a second advance shall not be made without the sanction of Government.

(25) No advance shall be made unless the value of the security offered exceeds the amount of the advance.

Land Improvement Rules—*(contd.)*

(26) Subject to the orders of the Government, provision shall be made for the proper inspection of works in course of construction for which advances have been made, and for ascertaining and securing that such advances are duly applied to the purpose for which they were made.

(27) The works and accounts kept of the disbursements upon them shall be at all times open to the inspection of the Collector or other person authorized by him in that behalf.

(28) In the case of advances exceeding Rs. 5,000, accounts shall be kept by the recipient of the advance in any form that the Collector may, with the sanction of superior authority, prescribe.

(29) If at any time the Collector or the Assistant or Deputy Collector making the advance is satisfied that any person who has received an advance has failed to perform any of the conditions under which it was made, he may, after recording in writing the grounds for the decision he has arrived at, and subject to the control of the superior revenue authorities, proceed to recover from such person, or from his security, under the provisions of the Act, any sums which remain due, together with any interest payable thereon.

(30) All works for which advances are made in a lump sum shall be inspected and reported on as soon as possible after the date on which their completion was directed in the certificate. All works for which advances are made by instalments shall be inspected and reported on before each instalment subsequent to the first is paid.

(31) No advances shall be given—

(1)—To any land-owner who is in arrears for land revenue, or for any advance under the Act.

(2)—To any tenant who is in arrears for rent, or for any advance under the Act.—*G. R. No.* 2484, *April* 18, 1877.

Supplementary Rules under Act XXVI. of 1871.

1.—The local enquiry required by No. 9 of the Rules, published on the 18th April 1877, may be conducted by the Collector, or by any Assistant or Deputy Collector, whom the Collector may depute to conduct the same, if the amount of the advance applied for exceeds Rs. 1,000, and by any officer of the Revenue Department, not lower in rank than a Mahálkari, whom the Collector may so depute, if the amount does not exceed Rs. 1,000. And if the amount of the advance asked for does not exceed Rs. 200, and is

asked for by any occupier of land to enable him to build up or otherwise complete a well already sunk, and in which water has been found, the local enquiry may, under the order of the Collector, be entrusted to the officiating Pátel and Kulkarni of the village in which the well has been sunk.

2.—The officer conducting any such local enquiry shall, at least one week previous to commencing the same, cause a written notice to be stuck up in one or more conspicuous places in the village, town, or city in which the work, for which the advance has been applied for, is proposed to be executed, stating, briefly, the nature of the said work, and appointing the day on which he proposes to hold a local enquiry, and shall require the village officers to make the contents of the said notice generally known, and satisfy himself of their having done so; or if the village officers themselves make the enquiry, it shall be their duty to make the contents of the notice generally known, and to record their having done so in their proceedings: provided that the officer conducting the enquiry may, on recording his reasons, substitute such other means, as he deems fit, for securing due publicity to his proceedings.

3.—If, for any unavoidable reason, the enquiry is not held on the day originally fixed for the same, the date to which such enquiry is adjourned shall be made publicly known in the same manner as is prescribed by the last rule for the day originally fixed.

4.—Every enquiry shall be made in the village, town, or city where the proposed work is to be executed (after visiting the place where it is to be executed) in the presence of the parties interested therein, or of such of them as may attend, and of the village officers, and of such other persons as may wish to attend.

5.—The officer holding the enquiry shall examine any person likely, in his opinion, to be able to give any such information as he may require, and when such person's evidence cannot otherwise be procured, may issue a summons, at the expense of the applicant, desiring the attendance of such person. The provisions of No. 16 of the Rules of 18th April 1877 shall apply, *mutatis mutandis*, to the charges for serving any such summons.

6.—When the enquiry has been completed, the officer conducting it shall prepare, in his own handwriting, a statement embodying,

(*a*) as far as possible, complete information, and his opinion on each of the points which, under No. 9 of the Rules of 18th April 1877, he has to enquire into;

Land Improvement Rules—*(contd.)*

(*b*) a record of the objections, if any, made by third parties either to the proposed work, or to the advance, and his opinion with respect to each such objection :

(*c*) any further information which he shall deem to be necessary to enable a proper decision to be arrived at ; and

(*d*) if the enquiring officer is not himself the Collector, his recommendation as to the manner in which the application should be disposed of.

7.—All advances made under the Act shall be repaid in equal half-yearly instalments ; and interest, calculated upon the amount outstanding at the time, shall be paid along with each instalment. The first instalment shall be repaid six months after the advance has been made.

The instalments and interest shall be paid at the taluka or mahàl treasury before 3 o'clock P.M., of the day on which they fall due, or, if that day happen to be a Sunday or close holiday, before 3 o'clock P.M. of the next working day.

A penal rate of compound interest shall, in the discretion of the Collector, be enforced upon all overdue payments, whether of principal or interest or both.

8.—In these Rules the word "Collector" includes any officer authorized to exercise the powers of a Collector under the Act.—*G. R. No.* 4338, *Aug.* 26, 1878.

28. **Takavi under the Act.**—It is the desire of Government to encourage in every possible way the construction of wells, especially in the Deccan collectorates, and applications for advances will receive favourable consideration. The fullest publicity should be given to the wishes of Government in this respect, and it should be explained that no increase of assessment will result on the revision of the rates in consequence of the construction of wells.—*G. R. No.* 3906, *Aug.* 14, 1871.

29. The land on which an improvement is to be made should invariably be taken as security, but there is no objection to personal security being taken as well when necessary.—*G. R. No.* 1596, *March* 10, 1877.

30. With reference to Rule 17, certificates granted under Section 14 of the Act, when signed by the applicant, require to be stamped, as mortgages.—*G. of I. No.* 350, *June* 16, 1874.

31. Under Rule 9 Local Governments may remit, to a certain extent, interest on advances made under the Act. Whenever the remission would involve a charge upon provincial and not imperial funds, the Local Government may also remit, at its discretion, any portion of the advance made under the Act, which may be found to be irrecoverable.—*G. of I. No.* 3503, *Oct.* 5, 1877.

32. Provision for these advances may be made in the estimates of each year, without further sanction by the Government of India, as follows:—

Governments of Madras, Bombay, and the North-Western Provinces and Oudh, each ..... Rs. 2,00,000

If any Local Government wishes to make a larger provision than this, the previous sanction of the Government of India must be obtained. Sums thus provided in the estimates may be disbursed without any further orders by the Government of India than may, in any case, be required by the Local Rules under the Land Improvement Act. The yearly rate of interest fixed by these Rules is one anna in the rupee or $6\frac{1}{4}$ per cent; but the Local Government may, if in any case it considers it expedient, for special reasons, reduce this rate to $4\frac{1}{2}$ per cent., or remit due interest in excess of this rate.—*G. R. No.* 5222, *Aug.* 25, 1877.

33. Government will be ready to authorize, on the recommendation of the Commissioner, any Assistant or Deputy Collector of experience to exercise the powers of a Collector in respect to granting certificates for advances not exceeding Rs. 500 in each instance.—*G. R. No.* 5802, *Oct.* 20, 1873.

34. Under the provisions of Section 4 of Act XV. of 1880 the Governor of Bombay in Council is pleased, with the sanction of the Governor-General in Council, to prescribe the following rules as to advances to be made, for the purposes hereinafter appearing, to holders (as defined in section 3 (11) of the Bombay Land Revenue Code, 1879,) of arable land:—

I. *Takávi* may be granted to holders of arable land for the following objects:—

(*a*) Purchase of seed and grain and cattle and agricultural stock;

(*b*) Rebuilding houses destroyed by fire or flood, and digging of wells, storage of water;

(*c*) Any other further purpose not specified in the Land Improvement Act, 1871, connected with agricultural objects.

II. Every application for advance, if made verbally and not in writing by the applicant, shall be at once reduced to writing by the officer to whom it is made.

III. Every application for advance shall be made to the Collector, Assistant or Deputy Collector in charge of the sub-division, or to the Mámlatdár of the táluka or the Mahálkari of the petha.

If the application is made to the Collector, Assistant or Deputy Collector in charge of the sub-division, such officer may, after making such inquiry as he may deem necessary, grant the advance applied for.

If the application is made to the Mámlatdár or Mahálkari, as the case may be, such officer shall, after making personal inquiry as to the character of the applicant, his ability to give security, and the fitness of granting the application, submit without unnecessary delay the application with his report to the Assistant or Deputy Collector who shall pass such order thereon as he may deem proper;

Provided that in any case, if the advance applied for exceeds the amount up to which the Assistant or Deputy Collector has been authorized to grant advances, such officer shall at once obtain the sanction of the Collector before making the grant;

And that no advance shall be given to any holder who is in arrears for land revenue or for any advance paid to him under the Land Improvement Act or these Rules except under special order of the Collector to be recorded with full reasons for granting sanction in his own handwriting.

IV. Takávi shall be granted on the following conditions of repayment:—

(*a*) An advance for the purchase of seed shall be repaid within one year;

(*b*) An advance for the purchase of cattle or for any other lawful purpose shall be repaid within two years or such further period not exceeding ten as the Collector, with the sanction of the Commissioner, may see fit to fix.

V. Any person desirous of repaying the whole or part of the advance granted him at any time before the expiration of the period mentioned in the order may do so.

VI. Repayment of advances shall be made by such instalments including interest as the officer granting the advance may determine;

Provided that instalments may be suspended by order of the Assistant or Deputy Collector in charge of the sub-division for any cause that would justify a suspension of the land revenue demand.

VII. The yearly rate of interest on advances shall ordinarily be one anna in the rupee or 6¼ per cent. chargeable from the date on which the advance is made; but the Local Government may at its discretion for special reasons lower this rate of interest or charge no interest at all or any part of the interest due.

VIII. Mortgage bonds, in the form hereinafter prescribed in Appendix A,* shall ordinarily be taken from the holders of lands to whom advances are made as security for repayment, and when the amount is considerable should invariably be taken.

In all cases in which mortgage-bonds are not taken, an agreement in the form hereinafter prescribed in Appendix B* shall be executed.

IX. Security of a Sávkár shall not be demanded for an advance, but in all cases the Collector should take measures, under the provisions of Chapter XI. of the Bombay Land Revenue Code, 1879, to secure repayment of the advance as an arrear of land revenue, and when there are several applicants in the same village, they should, if possible, be induced to become security one for the other.

X. When an advance has been granted the money should be paid by the disbursing officer to the holder of the land or his recognized agent and a receipt taken; but when advances are required for the purchase of cattle the Collector may take measures to purchase them and hand them over to the applicant. Cattle so purchased should be branded on the near fore-shoulder with the letter S.—*Govt. Notfn. No.* 2440, *Mar.* 26, 1883.

35. Although takávi may be properly given to reclaim Bheels and wild tribes from predatory habits or to induce them to abandon dali cultivation, great discrimination should be used in its grant. It is not desirable that a class of pauper cultivators should be fostered and created by takávi advances. One of the great obstacles to agricultural improvement is the difficulty of procuring labour. It is far better that the poorer classes should take their proper position in the labour market than be encouraged to undertake the responsibilities of cultivators on borrowed capital.—*G. R. No.* 756, *Feb.* 5, 1881.

Vide Appendix F. to this work.

36. In the case of saokárs attaching houses, &c., pledged to Government as security for the repayment of advances under the old rules, the Collector may, under Act 10 of 1876, Sec. 17, cl. 3, sell the houses as the property of the persons to whom the advances were made in satisfaction of the arrears payable by them. Not only does the law empower the Collector to do this, but the mortgage-bonds which the men who received the advances executed also expressly empower him to do so.

The position of the purchaser at the Court's auction is simply this, that he is entitled to the houses subject to the prior right of the Collector to sell them for what they will fetch, in satisfaction of his claims against the owners. If he chooses to purchase them at the Collector's auction well and good, if not, and a third party purchases them, that third party will have a superior title to them.

To prevent complications it is advisable that there should be no delay in enforcing the lien of Government on the houses.—*G. R. No.* 4533, *July* 6, 1877.

37. Agreements for the repayment of takávi not under the Act need only be registered if they create a right, title or interest of the value of Rs. 100 and upwards, to or in immoveable property (section 17, clause (*b*), Act III. of 1877).

38. **Takavi of both sorts.**—The following general Rules apply, as far as the law and existing Regulations allow, to all advances of both sorts:—

(*a*) The advances should be re-paid in not more than twenty equal half-yearly instalments including interest, the first instalment of principal to be repaid six months after the loan is completely taken up.

(*b*) Temporary advances to Municipalities should be re-payable in not more than twelve months.

(*c*) A penal rate of compound interest not less than six per cent. should be enforced, as far as the law allows, upon all over-due instalments of interest, or principal and interest, and this should not be lightly remitted.

[NOTE.—Rule (*c*) only applies to Takavi under the Act.]

(*d*) Any default in the payment of interest upon a loan of public money, or in the re-payment of the principal, should be promptly reported by the Account Department to the Local Government, and, if the loan was sanctioned by the Governor-General

in Council, to the Supreme Government. A Local Government receiving such a report should, in the case of a loan sanctioned by the Governor-General in Council, immediately explain the circumstances to the Government of India in the Home, Revenue, or Public Works Department, as the case may be, and the steps which it has taken to remedy the default.—*G. of I. with G. R. No.* 5222, *Aug.* 25, 1877.

39. Instalments on account of takávi advances are payable on 15th March and 15th November in each year.—*G. R. No.* 2344, *April* 10, 1882.